

No. 3015

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United States<sup>7</sup>  
Circuit Court of Appeals  
For the Ninth Circuit.

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UNITED STATES OF AMERICA,

Appellee,

vs.

CHARLES K. HOLSMAN *et al.*,

Appellants.

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Transcript of Record.

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Upon Writ of Error to the United States District  
Court, for the Southern District of Cal-  
ifornia, Southern Division.

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Filed

JUN 28 1917

F. D. Monckton,  
Clerk.



No.

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Circuit Court of Appeals  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original record are printed literally in italic; and, likewise, cancelled matter appearing in the original record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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### **Names and Addresses of Attorneys.**

For Defendant and Appellant Charles K. Holsman:

DUKE STONE, Esq., 434-436-438 Merchants  
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For Defendant and Appellant Gideon M. Freeman:

M. E. MEADER, Esq., 532 Higgins Building,  
Los Angeles, California.

For Plaintiff and Appellee:

ALBERT SCHOONOVER, Esq., United States  
Attorney; W. F. PALMER, Esq., Assistant  
United States Attorney, fourth floor Federal  
Building.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

Case No. 903 Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

**Citation (on Writ of Error).**

United States of America—ss.

To the United States of America, and to the United  
States District Attorney for the Southern District  
of California, Southern Division, Greeting:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit to be held at the city of San Francisco, in the state of California, on the 9th day of Feb., A. D. 1917, pursuant to a writ of error, filed in the clerk's office of the United States District Court of the Southern District of California, Southern Division, in the certain action No. 903 criminal, wherein Charles K. Holsman and Gideon M. Freeman are plaintiffs in error, and you are the defendant in error, to show cause, if any there be, why the judgment and sentence given, made and rendered against the said plaintiffs in error, as in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Oscar A. Trippet, United States district judge for the Southern District of California, Southern Division, this 10th day of January,

1917, and of the Independence of the United States the one hundred and forty-first.

OSCAR A. TRIPPET,

United States District Judge.

Receipt of a copy of the within citation is hereby admitted this 10 day of Jan., 1917.

ALBERT SCHOONOVER,

United States District Attorney for the Southern District of California.

By W. F. Palmer,

Assistant United States Attorney.

[Endorsed]: Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman, et al., defendants. Citation (on writ of error). Filed Jan. 10, 1917, at 30 min. past 11 o'clock, 9 M. Wm. M. Van Dyke, clerk; Murray C. White, deputy. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for said defendant.

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*In the District Court of the United States, Southern District of California, Southern Division.*

Case No. 903 Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN, et al.,

Defendants.

**Writ of Error.**

United States of America—ss.

The President of the United States of America, to the Honorable the Judges of the United States District Court, in and for the Southern District of California, Southern Division, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court before you, or some of you, between the United States of America, as plaintiff, and Charles K. Holsman and Gideon M. Freeman, as defendants, a manifest error hath happened, to the great damage of the said defendants, as by their complaint appears. We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do hereby command you if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at San Francisco, in the state of California, on the 9th day of Feby., 1917, next in the said United States Circuit Court of Appeals, to be there and then held, that the record and proceedings aforesaid being inspected, the said United States Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable Edward D. White, chief jus-

tice of the United States, this the 10th day of January, in the year of our Lord one thousand nine hundred and seventeen, and of the Independence of the United States the one hundred and forty-first.

WM. M. VAN DYKE,  
Clerk of the United States District Court, in and for  
the Southern District of California, Southern  
Division.

(Seal) By Chas. N. Williams,  
Deputy Clerk.

The above writ of error is hereby allowed.

OSCAR A. TRIPPET,  
District Judge.

I hereby certify that a copy of the within writ of error was on the 10th day of January, 1917, lodged in the clerk's office of the said United States District Court for the Southern District of California, Southern Division, for the said defendant in error.

WM. M. VAN DYKE,  
Clerk of the United States District Court, Southern  
District of California, Southern Division.

By Chas. N. Williams,  
Deputy Clerk.

[Endorsed]: Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman, et al., defendants. Writ of error. Filed Jan. 10, 1917, at 30 min. past 11 o'clock, 9 M. Wm. M. Van Dyke, clerk; Murray C White, deputy. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for said defendant.



*In the District Court of the United States, in and for the Southern District of California, Southern Division.*

### **Indictment.**

At a stated term of said court, begun and holden at the city of Los Angeles, county of Los Angeles, within the Southern Division of the Southern District of California, on the second Monday of July, in the year of our Lord one thousand nine hundred and fourteen.

The grand jurors of the United States of America, chosen, selected and sworn, within and for the division and district aforesaid, on their oath present:

That Charles K. Holsman, Henry L. Giles, Gideon M. Freeman, Ambrose C. Sims and Otto C. Joslin (since deceased), whose full and true names are, and each of them is, other than as herein stated, to the grand jurors unknown, hereinafter in this indictment called defendants, on or about the 1st day of January, in the year of our Lord one thousand nine hundred and twelve, in the city of Los Angeles, county of Los Angeles, state of California, in said Southern District of California, Southern Division, did then and there unlawfully, wilfully and feloniously conspire, combine, confederate and agree together to commit an offense against the United States, that is to say, the said defendants did then and there knowingly and unlawfully conspire, combine, confederate and agree together in devising and intending to devise a scheme and artifice to defraud certain persons, to-wit, any and all persons who could be induced to send defendants money, as hereinafter stated, and it was a part of said conspiracy,



for the purpose of executing said scheme and artifice to defraud, and attempting so to do, to place and cause to be placed, letters, packages, circulars and advertisements, in the United States postoffice at Los Angeles, California, and stations thereof, and street and letter boxes of the United States and other authorized depositories for mail matter in said city of Los Angeles, to be sent and delivered by the postoffice establishment of the United States, the nature, character and contents of said letters, packages, circulars and advertisements, except as hereinafter stated in the description of said scheme and artifice to defraud, being to the grand jurors unknown, and which said scheme and artifice to defraud was in substance as follows:

Said defendants intended to place and cause to be placed, divers advertisements in certain newspapers circulating generally throughout the western and southern part of the United States by means of the postoffice establishment of the United States and otherwise and published within the United States and in said Southern Division of said Southern District of California, wherein it should and would be set forth in substance and effect that the said Gideon M. Freeman was a physician practicing in the city of Los Angeles, California, and especially and specifically qualified to treat diseases of men, that is to say, among other diseases, loss of vitality, lost manhood, and declining manly power, and could and would cure any person afflicted with such diseases; that by means of said advertisements said defendants intended to cause and induce divers persons to communicate and open correspondence with them in the name of said defendant Gideon

M. Freeman, by means of the postoffice establishment of the United States, relative to their real or supposed symptoms or ailments; that when said persons so intended to be defrauded communicated with said defendants by the means aforesaid, said defendants intended to write and communicate with said persons by means of letters to be sent through said postoffice establishment enclosing a symptom blank in each of said letters, and advising each of said persons to answer carefully all questions contained in said blank, relative to his real or supposed ailments, and to send the same and a sample of such person's urine, to said Freeman, who would make a thorough study and analysis of same and then would be able to treat such person as well as if he were in said Freeman's office; and that nothing would be left undone by said Freeman to restore said persons to full vigor and health, and, irrespective of any symptoms that might be disclosed to defendants by said blanks and samples of urine, and even where said blanks and urine disclosed a normal physical and mental condition, and without any attempt by analysis of said urine or by careful examination of said symptom blank, or otherwise, to ascertain whether or not such persons were actually suffering from such a disease or any disease whatever, or believed themselves to be suffering therefrom, defendants intended, in letters to be sent to said persons through the postoffice establishment of the United States, to state to such persons, and induce them to believe, that their condition was thoroughly understood by defendants and that such persons were right in attending to their trouble at once, as such trouble, if neglected, would steadily become worse and

gradually undermine the general health, wreck the nervous system, and result in the total loss of manhood, of such persons, and defendants intended to state to and advise such persons in such letters to commence treatment at once, and that if such persons wished to avail themselves of said Freeman's treatment and advice, to forward to the secretary of said Freeman money to pay for a month's treatment, or if the entire three months' course of treatment was desired to send the entire amount therefor, which amount defendants intended to place at considerably less than three times the amount to be fixed for one month's treatment, which latter amount defendants intended to fix at different amounts to the different individuals; the basis upon which said amounts would be fixed and the different amounts defendants intended to so fix, being to the grand jurors unknown. Said statements, representations and advice so intended to be so made and given to said persons so to be defrauded as aforesaid, were not intended by said defendants to be made in good faith for the purpose of ascertaining the physical and mental condition of said persons, so that defendants could in good faith furnish treatment to cure and alleviate such condition; but were intended to be made by defendants for the purpose of inducing said persons to believe they were seriously afflicted with a disease of the urogenital organs, regardless of whether said persons were so afflicted or not, and to induce said persons to send and pay money to said defendants in cases where no treatment at all, physical or mental, was needed, and to induce others of such persons to pay for more treatment than the actual physical and mental

condition of said other persons so to be defrauded required.

And the said defendants, within the jurisdiction aforesaid, in pursuance of said conspiracy, and to effect the object thereof, did, on the 12th day of October, 1912, place and cause to be placed in the postoffice in said city of Los Angeles, or in a station, street box or letter box thereof, to be sent and delivered by the post-office establishment of the United States, a certain letter directed "Mr. Clyde L. Coon, Kingman, Arizona, Box #741," a copy of said letter being as follows, to-wit:

"All communications strictly confidential.

Consultation and advice free in person or by mail.

Daily office hours: 9 a. m. to 8 p. m. Sundays:  
10 to 1.

G. M. Freeman, M. D.

The Leading Specialist for Men.

327½ South Spring Street.

Largest and best equipped office in the west.

Confidential letters, money orders, drafts, etc., will reach us safely addressed to my secretary, A. C. Sims, 327½ S. Spring street, Los Angeles, Cal.

I confine my practice to the special, private, chronic and genito-urinary diseases of men.

Los Angeles, Cal., October 12, 1912.

Mr. Clyde L. Coon,

Box #741, Kingman, Arizona.

My Dear Sir:—

Your symptom blank is now before me and your remarks and symptoms have been carefully considered. I have subjected the sample of urine to a thorough

analytic test and have come to the conclusion that I thoroughly understand your condition and have no experiments to make. You are right in attending to this trouble at once, for if neglected, it would surely undermine your nervous system and result in a total loss of manhood.

The loss of the vital fluid during sleep and in the urine is a serious drain on one's system and you will readily understand the importance of having this drain stopped as soon as possible.

Should you wish to avail yourself of my treatment and advice, you will please forward me the cost of same, which will be \$35, payable \$15 cash, \$10 in thirty days and \$10 in sixty days, or if you desire to pay all cash, I will accept \$30 in full payment for the three months' treatment.

I have treated and cured thousands of men afflicted as you are, and I am sure should you place your case with me and take my treatment, following my instructions, you will never regret the small outlay, but on the other hand you will be more than grateful that you have taken my treatment and followed my advice, for I will certainly restore you to perfect virility and keen vigor in a very short while. You will improve soon after you have placed your case under my treatment and it will not interfere with your work whatsoever. You will become filled with magnetism and will improve not only physically but mentally as well, for there is a very close connection between the nerves of the sexual organs and those of the brain.

Trusting that you will write me by return mail letting me know what disposition to make of your corre-



spondence, and assuring you of my very best attention should you place your case in my hands, and guaranteeing you that the benefits you will derive from my treatment will be worth to you many times the amount you pay, I am,

Very faithfully yours,

G. M. FREEMAN, M. D."

And the grand jurors aforesaid, on their oaths aforesaid, do further present that said defendants, in further pursuance of said conspiracy and to further effect the object thereof, did, on the 30th day of August, 1912, place and cause to be placed in the postoffice in the said city of Los Angeles, or in a station, street box or letter box thereof, to be sent and delivered by the postoffice establishment of the United States, a certain letter, directed, "Cicero Hickman, Deming, New Mexico, Box 382," a copy of said letter being as follows, to-wit:

"All communications strictly confidential.

Consultation and advice free in person or by mail.

Daily office hours: 9 a. m. to 8 p. m. Sundays:  
10 to 1.

G. M. Freeman, M. D.

The Leading Specialist for Men.

327½ South Spring Street.

Largest and best equipped office in the west.

Confidential letters, money orders, drafts, etc., will reach me safely addressed to my secretary, A. C. Sims, 327½ S. Spring street, Los Angeles, Cal.

I confine my practice to the special, private, chronic and genito-urinary diseases of men.

Los Angeles, Cal., Sept. 1, 1912.

Mr. Cicero Hickman,

Deming, New Mexico.

My dear Sir:—

Your symptom blank is now before me and your remarks and symptoms have been carefully considered.

Having made a specialty of trouble such as yours for the past twenty years or more, I thoroughly understand your condition and have no experiments to make. My record of curing such trouble is one of unbroken success.

I have subjected your sample of urine to a careful analytical test and have come to the conclusion that you are losing semen in your urine and during sleep, and this is a very serious drain on one's whole system. These drains are sapping the very life blood from you and weakening you not only physically but mentally as well, for there is a very close sympathetic connection between the nerves of the sexual organs and the brain. The loss of one drop of semen without venereal orgasm weakens a man as much as the loss of one ounce of blood, and when you are losing several drops of the vital fluid daily, you can readily estimate the seriousness of such a drain and see how necessary it is to have it stopped as soon as possible.

Should you wish to avail yourself of my treatment and advice, my fee will be \$35, payable \$15 cash, \$10 in thirty days and \$10 in sixty days, or if you are in position to pay a cash fee, I will accept \$30 in full payment. Upon receipt of your remittance for whichever amount you wish to send, I will prepare and forward you at once the necessary treatment for the first month.

You will improve soon after you have placed yourself under my treatment and it will not interfere with your work whatsoever.

Kindly write me a line by return mail so that I may know what disposition to make of your correspondence, as I do not wish to annoy you with needless letters. Assuring you of my very best attention should you place your case with me, and guaranteeing you that the benefits you will derive from my treatment will be worth to you many times the amount you pay, I am,  
Very faithfully,

G. M. FREEMAN, M. D."

Contrary to the form of the statutes of the United States in such case made and provided, and against the peace and dignity of the said United States.

ALBERT SCHOONOVER,

United States Attorney.

[Endorsed]: Form No. 456. No. 903 Crim. United States District Court, Southern District of California. The United States of America vs. Charles K. Holzman, Henry L. Giles, Gideon M. Freeman, Ambrose C. Sims and Otto C. Joslin (since deceased). Indictment for viol. Sec. 37, Act Mch. 4, 1909, Ch. 321. Conspiracy to violate Sec. 215, Act Mch. 4, 1909, Ch. 321. Using mails in scheme to defraud. A true bill. Fred W. Beau De Zart, foreman. Presented and filed in open court, this 6th day of January, A. D. 1905. Wm. M. Van Dyke, clerk; by Leslie S. Colyer, deputy clerk.



*In the District Court of the United States, in and for  
the Southern District of California, Southern Di-  
vision.*

No. 903 Criminal.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

GIDEON M. FREEMAN, *et al.*,

Defendants.

### **Demurrer.**

Now comes the defendant, Gideon M. Freeman, and demurs to the indictment on file herein on the following grounds, to wit:

#### **I.**

That said indictment does not state facts sufficient to constitute a public offense.

#### **II.**

That said indictment is multifarious in that each of said letters set forth in said indictment constitute each a separate and distinct offense and more than one offense is charged in said indictment without being separately set forth or stated and that more than one offense is set forth in the same count without being separately stated.

#### **III.**

That said indictment is uncertain and indefinite in this, that it does not state, nor can it be ascertained therefrom, whether the statements contained in said letters, or in either of said letters, are true or false, nor whether the diagnosis set forth in said letters is true or false, nor whether the addressees of said letters

suffered as in said letters set forth, nor whether any money was received by defendants or any of them, nor in what newspapers said advertisements were set forth, nor what said advertisements contained, nor whether any symptom blank or diagnosis sheet was sent to either of the addressees of said letters, nor whether any symptom blank or diagnosis sheet was filled out or sent unto the defendant or any of the defendants, nor what the statements in said symptom blanks or diagnosis sheets were, nor what representations or statements were made by either of the addressees of said letters unto the defendant or defendants as to their ailments or supposed ailments; nor can it be ascertained therefrom upon what information the letters alleged to have been written were written and the advice therein given, nor what the letters, to which the ones set forth in the indictment are answers, contained or represented or set forth, nor whether or not the said addressees of said letters did really and in fact suffer as set forth in said letters and as advised, as alleged by defendants, nor whether said addressees of said letters set forth in the indictment did suffer any ailment or did suffer the ailments set forth in said letters.

Wherefore, the defendant asks that this demurrer be sustained and this indictment be dismissed.

GEO. S. HUFF,  
FRANK C. HILL,  
LYNDEN BOWRING,

Attorneys for Said Defendant Gideon M. Freeman.

[Endorsed]: No. 903. Criminal. In the District Court of the United States, in and for the Southern District of California, Southern Division. The United

States of America, plaintiffs, vs. Gideon M. Freeman, et al., defendants. Demurrer. Received copy of the within demurrer this 25th day of January, 1915. Filed Febry. 8, 1915. Wm. M. Van Dyke, clerk; by F. F. Green, deputy. Geo. S. Hupp, attorney-at-law, 1111-1114 Van Nuys Building, 7th and Spring Sts. Home 10801, Main 5742. Los Angeles, California.

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*In the District Court of the United States, in and for  
the Southern District of California, Southern Di-  
vision.*

No. 903—Criminal.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

GIDEON M. FREEMAN, et al.,

Defendants.

### Motion to Quash.

Now comes the defendant Gideon M. Freeman and moves the court to quash and set aside the indictment in the above entitled matter and assigns in support of said motion the following reasons:

#### I.

That said indictment does not state facts sufficient to constitute a public offense.

#### II.

That said indictment is multifarious in that each of said letters set forth in said indictment constitute each a separate and distinct offense and more than one offense is charged in said indictment without being separately set forth or stated and that more than one of-

fense is set forth in the same count without being separately stated.

### III.

That said indictment is uncertain and indefinite in this, that it does not state, nor can it be ascertained therefrom, whether the statements contained in said letters, or in either of said letters, are true or false, nor whether the diagnosis set forth in said letters is true or false, nor whether the addressees of said letters suffered as in said letters set forth, nor whether any money was received by defendants or any of them, nor in what newspapers said advertisements were set forth. nor what said advertisements contained, nor whether any symptom blank or diagnosis sheet was sent to either of the addressees of said letters, nor whether any symptom blank or diagnosis sheet was filled out or sent unto the defendant or any of the defendants, nor what the statements in said symptom blanks or diagnosis sheets were, nor what representations or statements were made by either of the addressees of said letters unto the defendant or defendants as to their ailments or supposed ailments; nor can it be ascertained therefrom upon what information the letters alleged to have been written were written and the advice therein given, nor what the letters, to which the ones set forth in the indictment are answers, contained or represented or set forth, nor whether or not the said addressees of said letters did really and in fact suffer as set forth in said letters and as advised. as alleged by defendants, nor whether said addressees of said let-

ters set forth in the indictment did suffer any ailment or did suffer the ailments set forth in said letters.

GEO. S. HUPP,  
FRANK C. HILL,  
LYNDEN BOWRING,  
Attys. for Deft. Freeman.

Wherefore, this defendant prays that said indictment be as to this defendant quashed and set aside.

GEO. S. HUPP,  
FRANK C. HILL &  
LYNDEN BOWRING,

Attorneys for Said Defendant Gideon M. Freeman.

[Endorsed]: No. 903. Criminal. In the District Court of the United States, in and for the Southern District of California, Southern Division. The United States of America, plaintiffs, vs. Gideon M. Freeman, et al., defendants. Motion to quash. Received copy of the within motion to quash this 25th day of January, 1915. Filed Febry. 8, 1915. Wm. M. Van Dyke, clerk; by F. F. Green, deputy. Geo. S. Hupp, attorney-at-law, 1111-1114 Van Nuys Building, 7th and Spring Sts. Home 10801, Main 5742. Los Angeles, California.

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*In the District Court of the United States, in and for  
the Southern District of California, Southern Di-  
vision.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN, et al.,

Defendants.

**Demurrer.**

Comes now defendant Charles K. Holsman and demur to said indictment, and for cause of demurrer alleges:

**I.**

That said indictment does not state facts sufficient to constitute an offense against the United States, or the laws thereof;

**II.**

That said indictment does not state facts sufficient to constitute an offense, in this, to wit:

1. That said indictment does not sufficiently set out a scheme to defraud;

2. That said indictment does not allege that said scheme devised by defendants was by means of false or fraudulent pretenses, representations, or promises;

3. That said indictment does not allege how said scheme was to be executed;

4. That said indictment does not allege that the persons to be defrauded had ever seen said letters, or had any knowledge of them, or were in anywise deceived thereby, or that the same were intended to deceive anyone;

5. That said indictment does not allege that said scheme set out therein was used or intended to defraud, or was illegal, or that the same was calculated to deceive a person of ordinary comprehension or prudence;

6. That said indictment does not allege that the representations as to the ability, experience, and treatment which defendants are alleged to have made, were not made in good faith, and under an honest belief in their truth;



7. That said indictment does not directly and positively set out the specific scheme or artifice which it is alleged defendants entered into or devised;

III.

That said indictment attempts to charge two separate and distinct offenses, to wit, two offenses to use the mails of the United States in a scheme to defraud, which said alleged offenses are not separately stated, but are joined in one count of said indictment; that said indictment has attempted to charge under one count and not by separate statements in two counts, a conspiracy to defraud by means of the postoffice establishment, and the actual commission of the crime of depositing in the postoffice two separate and distinct letters addressed to different persons, at different times and directed to different towns, in the execution of a scheme to defraud.

IV.

That said indictment was not found within three years next after said alleged offense was committed, and that same is barred by the statutes of the United States and cannot now be prosecuted, tried, or punished.

Wherefore, defendant Holsman prays that said indictment be dismissed and he be allowed to go hence.

CHARLES H. FAIRALL,

Attorney for Defendant Holsman.

[Endorsed]: No. 903 Crim. District Court of the United States, Southern District. United States of America, plaintiff, vs. Charles K. Holsman *et al.*, defendants. Demurrer to indictment of deft. Chas. K. Holsman. Filed Mch. 1st, 1915. Wm. M. Van Dyke,

clerk; by F. F. Green, deputy. Charles H. Fairall, attorney at law, 509 Balboa Building, San Francisco, California.

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**Copies of Minute Orders.**

At a stated term, to wit: the January term, A. D. 1915, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the court room thereof, in the city of Los Angeles, on Monday, the first day of March, in the year of our Lord one thousand nine hundred and fifteen;

Present:

The Honorable Benjamin F. Bledsoe, district judge.

No. 903 Crim. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

This cause coming on this day to be heard on the motion of defendant Gideon M. Freeman to quash the indictment, and also coming on to be heard on the demurrer of defendant Gideon M. Freeman to the indictment, and also coming on to be heard on the demurrer (this day filed herein) of defendant Charles K. Holzman to the indictment; Albert Schoonover, Esq., U. S. attorney, appearing as counsel for the United States; defendant Holzman being present on bail, with his counsel, Chas. H. Fairall, Esq.; defendant Freeman being present on bail, with his counsel, Geo. S. Hupp,



Esq.; and said motion of defendant Freeman to quash the indictment having been argued, in support thereof, by Geo. S. Hupp, Esq., of counsel for defendant Freeman, and thereupon submitted to the court for its consideration and decision; it is by the court ordered that said motion to quash the indictment be, and the same hereby is denied; and the demurrer of defendant Freeman to the indictment having been argued, in support thereof, by Geo. S. Hupp, Esq., of counsel for defendant Freeman, and submitted to the court for its consideration and decision, it is by the court ordered that said demurrer of defendant Freeman to the indictment be, and the same hereby is overruled; and the demurrer of defendant Holsman to the indictment having been argued in support thereof by Chas. H. Fairall, Esq., of counsel for said defendant Holsman, and submitted to the court for its consideration and decision, it is ordered that the demurrer of defendant Holsman to the indictment be, and the same hereby is overruled; and defendant Charles K. Holsman having thereupon been required to plead to said indictment, and having pleaded not guilty as charged therein, which plea is now by order of the court entered herein; it is, on motion of Albert Schoonover, Esq., U. S. attorney, of counsel for the United States, ordered that the order heretofore made and entered herein fixing the bail of defendants Holsman and Freeman at \$5000.00 each be, and the same hereby is vacated and set aside, and it is further ordered on like motion, that the bail of said defendant Holsman and Freeman be, and the same hereby is fixed at \$1000.00 each, and it is further ordered, on like motion, that defendant Holsman be, and

he hereby is granted ten (10) days within which to file an additional or new bond herein; and defendant Gideon M. Freeman having been required to plead to the indictment, and having pleaded not guilty as charged therein, which plea is now by order of the court entered herein; it is ordered that, for the setting of this cause down for the trial of defendant Holsman and Freeman, said cause be placed on the April trial calendar of this court, to be called on Monday, the 5th day of April, 1915, at 10 o'clock a. m.

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At a stated term, to wit: the July term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the court room thereof, in the city of Los Angeles, on Tuesday, the twenty-eighth day of November, in the year of our Lord one thousand nine hundred and sixteen:

Present:

The Honorable Oscar A. Trippet, district judge.

No. 903 Crim. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

This cause coming on this day for the trial of defendants Charles K. Holsman and Gideon M. Freeman before the court and a jury to be impanelled; Clyde R. Moody, Esq., and Wm. F. Palmer, Esq., assistant U. S. attorneys, appearing as counsel for the United States: defendants Holsman and Freeman being pres-

ent on bail, with their counsel, George S. Hupp, Esq., Duke Stone, Esq., and Mack Meader, Esq.; and W. C. Wren being present as shorthand reporter of the testimony and proceedings, and acting as such; and the court having ordered that the trial proceed and that a jury be impanelled herein; and the following twelve (12) petit jurors having been duly drawn, called and sworn on *voir dire*, to wit: Joseph A. Anker, Walter W. James, William S. Barrowman, George B. Wilson, Otto J. Zahn, Henry Kettle, L. T. Bradford, James Calderwood, W. J. Doran, M. L. Rossiter, William Chislett and Hugh M. McFarland; and a statement having been made to the jurors by the court; and said twelve jurors having been examined by the court and by counsel for the government and by counsel for defendants; and W. J. Doran having been challenged and excused for cause by the court; and the remaining eleven jurors in the box having been passed for cause; and Otto J. Zahn having been challenged peremptorily by defendants and excused; and George B. Wilson having been challenged peremptorily by defendants and excused; and William Chislett having been challenged peremptorily by defendants and excused; and William S. Barrowman having been challenged peremptorily by plaintiffs and excused; and M. L. Rossiter having been challenged peremptorily by defendants and excused; and the remaining six jurors, to wit: jurors Joseph A. Anker, Walter W. James, Henry Kettle, L. T. Bradford, James Calderwood and Hugh M. McFarland, having been accepted by counsel for plaintiffs and by counsel for defendants and duly sworn as jurors to try this cause; and, in

place of the six jurors excused, the following six petit jurors having been duly drawn, called and sworn on *voir dire*, to wit: Owen E. Graham, Charles W. Corbaley, A. W. Morgan, L. C. Turner, C. A. Henderson and J. H. Byerley; and said last named six jurors having been examined by the court and by counsel for plaintiffs and by counsel for defendants; and A. W. Morgan having been challenged for cause by defendants, which challenge is resisted by plaintiffs and denied by the court, to which ruling of the court on motion of defendants and by direction of the court exceptions are hereby noted herein on behalf of defendants; and the remaining jurors having been passed for cause; and A. W. Morgan having been challenged peremptorily by defendants and excused; and Charles W. Corbaley having been challenged peremptorily by plaintiffs and excused; and Owen E. Graham having been challenged peremptorily by defendants and excused; and L. C. Turner having been challenged peremptorily by defendants and excused; and jurors C. A. Henderson and J. H. Byerley having been accepted by counsel for plaintiffs and by counsel for defendants and duly sworn as jurors to try this cause; and, in place of the last four jurors excused, namely, jurors Graham, Corbaley, Morgan and Turner, the following named petit jurors having been duly drawn, called and sworn on *voir dire*, to wit: Henry Kiesling, Sumner P. Hunt, John P. Newell and William H. Black; and said jurors having been examined by the court and by counsel for plaintiffs and by counsel for defendants and passed for cause; and William H. Black having been challenged peremptorily by defendants and excused; and Sumner

P. Hunt having been challenged peremptorily by defendants and excused; and John P. Newell having been challenged peremptorily by plaintiffs and excused; it is by the court ordered, on account of peremptory challenges, the peremptory challenge of juror Newell by plaintiff after plaintiff had passed for that defendants be, and they hereby are allowed two extra peremptory challenges, in addition to those given them by law; and Henry Kiesling having been accepted by counsel for plaintiffs and by counsel for defendants and duly sworn as a juror to try this cause; and, in place of the last three jurors excused, namely, jurors Hunt, Newell and Black, the following petit jurors having been duly drawn, called and sworn on *voir dire*, to wit: A. W. Bales, D. S. De Van and Albert S. Dixon; and said last named three jurors having been examined by the court and by counsel for plaintiffs and by counsel for defendants and passed for cause; and Albert S. Dixon having been challenged peremptorily by plaintiffs and excused; and A. W. Bales and D. S. De Van having been accepted by counsel for plaintiffs and by counsel for defendants and duly sworn as a juror to try this cause; and, in place of the last juror excused, namely, juror Dixon, C. M. Seeley, a petit juror, having been duly drawn, called, sworn on *voir dire*, examined by the court and by counsel for plaintiffs and by counsel for defendants and passed for cause, and said juror C. M. Seeley having been accepted by counsel for plaintiffs and by counsel for defendants and duly sworn as a juror to try this cause; and the impanellment of the jury being now concluded, said jury as so impanelled



and sworn consisting of the following named jurors,  
to wit:

JURY.

1. Joseph A. Anker.
2. Walter W. James.
3. Henry Kettle.
4. L. T. Bradford.
5. James Calderwood.
6. Hugh M. McFarland.
7. C. W. Henderson.
8. J. H. Byerley.
9. Henry Kiesling.
10. A. W. Bales.
11. D. S. De Van.
12. C. M. Seeley.

And the court having admonished the jury that, during the progress of this trial, they are not to permit other persons to speak to them, nor themselves speak to other persons, about this cause, or anything connected with it, and that, until said cause is given them for consideration, under the instructions of the court, they are not to speak to each other about this cause or anything therewith connected; and court thereupon, and the balance of the panel having been excused until Friday, December 1st, at 10 a. m., and at the hour of 11:22 o'clock a. m., having taken a recess for 9 minutes; and now, at the hour of 11:31 o'clock a. m., court having reconvened; and counsel, defendants and shorthand reporter being present as before; and counsel for the respective parties having stipulated that the jury are present, and all of said jurors being present in

court; and the indictment having been read to the jury, and the pleas of not guilty of defendants Charles K. Holsman and Gideon M. Freeman having been announced to the jury by the clerk; now, on motion of Duke Stone, Esq., of counsel for defendants, it is ordered that all of the witnesses in this cause, except government witness C. E. Webster, postoffice inspector, be excluded from the court room during this trial except when actually upon the witness stand for the purpose of testifying herein; Clyde R. Moody, Esq., assistant U. S. attorney, of counsel for the United States, having made a statement to the jury of what the government expects to prove; and George S. Hupp, Esq., of counsel for defendants, having made a statement to the jury of what defendants expect to prove in their defense; and the court having given the jury the usual admonition; and court thereupon, at the hour of 11:58 o'clock a. m., having taken a recess until the hour of 2 o'clock p. m., of this day; until which time the jurors are excused; and now, at the hour of 2 o'clock p. m., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and counsel for the respective parties having stipulated that the jury are present, and all of said jurors being present in court; and Bryon J. Badham having been called and sworn as a witness on behalf of the United States, and having given his testimony; and, in connection with the testimony of said witness, the government having offered an exhibit, which is admitted in evidence in its behalf, to wit: U. S. Ex. 1, store lease, E. A. Hoffman to Henry S. Giles, *et al.*, dated May 22, 1912; it is, on motion and by consent, ordered that all

papers admitted in evidence and filed shall be deemed to have been read to the jury; and Fred C. Fuller having been called and sworn as a witness on behalf of the United States, and having given his testimony; and, in connection with the testimony of said witness, the government having offered an exhibit, which is admitted in evidence in its behalf, to wit: U. S. Ex. 1-a, affidavit of G. M. Freeman as to physicians employed; and James B. Webster having been called and sworn as a witness on behalf of the United States, and having given his testimony; and, in connection with the testimony of said witness, the government having offered in evidence an advertisement in the Los Angeles Examiner of July 14th, 1912, which is admitted in evidence as U. S. Ex. 2; and the government having offered substantially the same advertisement appearing in issues of said Los Angeles Examiner in July and August, 1912, in copies contained in bound volumes of said newspaper, which are admitted in evidence on behalf of the United States as U. S. Ex. 33 and U. S. Ex. 34, the number "32" not yet used; and the government having also offered certain other exhibits, which are admitted in evidence in its behalf, to wit: U. S. Ex. 2-a, stipulation as to mailing of letters to G. M. Freeman, etc.; U. S. Ex. 3, letter to G. M. Freeman, signed Clyde L. Coon; U. S. Ex. 4, letter to G. M. Freeman, signed Clyde L. Coon, of Aug. 29, 1912; U. S. Ex. 5, diagnosis blank, Claude L. Coon; U. S. Ex. 6, letter signed G. M. Freeman to Clyde L. Coon; and the court having given the jury the usual admonition; and court thereupon, at the hour of 3:32 o'clock p. m., having taken a recess for 8 minutes; and now, at the



hour of 3:40 o'clock p. m., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and counsel for the respective parties having stipulated that the jury are present, and all of said jurors being present in court; and the government having offered certain exhibits, which are admitted in evidence in its behalf, to wit: U. S. Ex. 7, letter to Clyde L. Coon, of Sept. 26, 1912; U. S. Ex. 8, letter to C. L. Coon, signed G. M. Freeman; U. S. Ex. 9, letter to C. L. Coon, signed G. M. Freeman; U. S. Ex. 10, letter to C. L. Coon, signed G. M. Freeman; U. S. Ex. 11, bottle containing mixture, tea, etc.; U. S. Ex. 12, letter, signed Cicero Hickman; U. S. Ex. 13, letter to Hickman, signed Freeman, of Aug. 13, 1912; U. S. Ex. 14, self-examination blank for men; U. S. Ex. 15, letter of Aug. 27, 1912; U. S. Ex. 16, letter, Freeman to Hickman; U. S. Ex. 17, letter, Freeman to Hickman; U. S. Ex. 18, letter, Freeman to Hickman; U. S. Ex. 19, letter, Freeman to Hickman; U. S. Ex. 20, letter, Freeman to Hickman; U. S. Ex. 21, letter, Hickman to Freeman; U. S. Ex. 22, letter, Freeman to Hickman; U. S. Ex. 23, bottle of mixture; U. S. Ex. 24, envelope and letter, letter to Freeman, signed John Bammes; U. S. Ex. 25, bottle of mixture; and Frank L. Cunningham having been called and sworn as a witness on behalf of the United States, and having given his testimony; and, in connection with the testimony of said witness, the government having ordered certain exhibits, which are admitted in evidence in its behalf, to-wit: U. S. Ex. 26, envelope; U. S. Ex. 27, bottle; U. S. Ex. 28, envelope; U. S. Ex. 29, bottle; U. S. Ex. 30, envelope; U. S.

Ex. 31, bottle; and the court having given the jury the usual admonition; it is at the hour of 4:44 o'clock p. m. ordered that this cause be and the same hereby is continued until Wednesday, the 29th day of November, A. D. 1916, at 10 o'clock a. m., until which time the jurors are excused.

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At a stated term, to wit: the July term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the court room thereof, in the city of Los Angeles, on Wednesday, the twenty-ninth day of November, in the year of our Lord one hundred nine hundred and sixteen; Present:

The Honorable Oscar A. Trippet, district judge.

No. 903 Crim. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, GIDEON M. FREEMAN, *et al.*,

Defendants.

This cause coming on this day for the trial of defendants Charles K. Holsman and Gideon M. Freeman before the court and a jury heretofore duly impanelled herein; Clyde R. Moody, Esq., and William F. Palmer, Esq., assistant U. S. attorneys, appearing as counsel for the United States; defendants Freeman and Holsman being present on bail, with their counsel, George S. Hupp, Esq., Duke Stone, Esq., and Mack Meader, Esq.; W. C. Wren being present as shorthand reporter

of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Frank S. Cunningham, a witness on behalf of the United States, having again taken the stand for further examination, and having given his testimony; and Charles H. Whitman and C. E. Webster, having respectively been called and sworn as witnesses on behalf of the United States, and having given their testimony; and C. S. Ranger having been called and sworn as a witness on behalf of the United States, and having given his testimony; and the court having given the jury the usual admonition; and court thereupon, at the hour of 11:16 o'clock a. m., having taken a recess for 9 minutes; and now, at the hour of 11:25 o'clock a. m., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and counsel for the respective parties having stipulated that the jury are present, and all of said jurors being present in court; and Wirt B. Dakin having been called and sworn as a witness on behalf of the United States, and having given his testimony; and the government having rested; and Duke Stone, Esq., of counsel for defendants, having made a statement to the jury on behalf of defendant Holsman; and the court having given the jury the usual admonition; and court thereupon, at the hour of 11:54 o'clock a. m., having taken a recess until the hour of 2 o'clock p. m. of this day, until which time the jurors are excused.

And now, at the hour of 2 o'clock p. m., court having reconvened; and defendants, counsel and shorthand reporter being present as before and counsel for

the respective parties having stipulated that the jury are present and all of said jurors being present in court; and Gideon M. Freeman, one of the defendants, having been called and sworn as a witness on behalf of defendants, and having given his testimony; and in connection with the testimony of said witness, defendants having offered for identification certain exhibits which are for identification marked with certain exhibit designations, to wit: Defts.' Ex. 1, correspondence of defendants' office, May, 1913; Defts.' Ex. 2, correspondence of defendants' office, June, 1913; Defts.' Ex. 3, correspondence of defendants' office, July, 1913; Defts.' Ex. 4, correspondence of defendants' office, August, 1913; Defts.' Ex. 5, correspondence of defendants' office, September, 1913; Defts.' Ex. 6, October, 1913; Defts.' Ex. 7, correspondence of defendants' office, November, 1913; and Defts.' Ex. 8, correspondence of defendants' office, December, 1913; and said Defendants' Exhibits 1, 2, 3, 4, 5, 6, 7 and 8 having been offered in evidence on behalf of defendants, it is by the court ordered that said offer be, and the same hereby is denied, and said exhibits excluded; and the court having given the jury the usual admonition; and court thereupon, at the hour of 3:11 o'clock p. m., having taken recess for 11 minutes; and now, at the hour of 3:22 o'clock p. m., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and counsel for the respective parties having stipulated that the jury are present, and all of said jurors being present in court; and Gideon M. Freeman, one of the defendants, and a witness in their behalf, having again taken the stand for further examination, and having

given his testimony; and C. E. Webster, a witness on behalf of the United States, having again taken the stand for further examination, and having given his testimony; and Walter B. Sim and Ed. W. Hopkins having respectively been called and sworn as witnesses on behalf of defendants, and having given their testimony; and defendants having rested; and this cause having been argued to the jury, on behalf of the government, by William F. Palmer, Esq., assistant U. S. attorney, of counsel for the United States; and the court having given the jury the usual admonition; it is, at the hour of 4:30 o'clock p. m., ordered that this cause be, and the same hereby is continued until Friday, the 1st day of December, 1916, at 9:30 o'clock a. m., for further trial, until which time the jurors are excused.

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At a stated term, to wit: the July term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the court room thereof, in the city of Los Angeles, on Friday, the first day of December, in the year of our Lord one thousand nine hundred and sixteen:

Present:

The Honorable Oscar A. Trippet, district judge.

No. 903 Crim. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, et al.,

Defendants.



This cause came on this day for the further trial of defendants Charles K. Holsman and Gideon M. Freeman before the court and a jury heretofore duly impanelled herein; Clyde R. Moody, Esq., and William F. Palmer, Esq., assistant U. S. attorneys, appearing as counsel for the United States; defendants Holsman and Freeman being present on bail, with their counsel, George S. Hupp, Esq., Duke Stone, Esq., and Mack Meader, Esq.; W. C. Wren being present as shorthand reporter of the testimony and proceeding, and acting as such; and the roll of the jury having been called, and all being present; and this cause having been further argued to the jury, on behalf of the defendants on trial, by Duke Stone, Esq., and George S. Hupp, Esq., of counsel for defendants; and the court having given the jury the usual admonition; and thereupon, at the hour of 10:49 o'clock a. m., court having taken a recess until the hour of 10:56 o'clock a. m. of this day; and now, at the hour of 10:56 o'clock a. m., court having reconvened; and defendants, counsel and shorthand reporter being present as before, except that Duke Stone, Esq., of counsel for defendants, is not present; and counsel for the respective parties having stipulated that the jury are present, and all of said jurors being present in court; and this cause having been further argued to the jury, on behalf of the government in reply, by Clyde R. Moody, Esq., assistant U. S. attorney, of counsel for the United States; and Duke Stone, Esq., of counsel for defendants, having come into court at the hour of 10:57 o'clock a. m.; and the court having read to the jury its written instructions; it is, on motion of counsel for defendants

and by direction of the court, ordered that exceptions be, and hereby are noted herein on behalf of defendants to the refusal of the court to give such of the instructions requested by defendants as the court did refuse to give, and also to each and every of the instructions given by the court; and Josiah W. Bell, a deputy U. S. marshal, having been duly sworn to take charge of the jury; it is ordered, that, after the jury retire, the U. S. marshal for this district take the jurors to some suitable place for their dinner, said dinner, for the jurors and accompanying officers, to be at the expense of the United States, and that thereafter said marshal return said jurors to their room for deliberations concerning their verdict; the jury, at the hour of 12:01 o'clock p. m., retire in charge of said sworn officer.

No. 903 Crim. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, et al.,

Defendants.

The jury, at the hour of 2:12 o'clock p. m., having come into court; Clyde R. Moody, Esq., and William F. Palmer, Esq., assistant U. S. attorneys, appearing as counsel for the United States; defendants Charles K. Holsman and Gideon M. Freeman being present on bail, with their counsel, George S. Hupp, Esq., Duke Stone, Esq., and Mack Meader, Esq.; W. C. Wren being present as shorthand reporter of the proceedings, and acting as such, and counsel for the respective parties having stipulated that the jury are present, and all of said jurors being present in



court; and the jury having been asked if they have agreed upon a verdict, and the jurors having by their foreman replied that they have so agreed, and having been required to present their verdict, and their verdict having been read by the clerk; now, by direction of the court, said verdict is filed and recorded by the clerk, said verdict as so recorded being as follows, to wit:

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*In the District Court of the United States, in and for  
the Southern District of California, Southern Di-  
vision.*

No. 903 Crim.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHAS. K. HOLSMAN and GIDEON M. FREE-  
MAN,

Defendants.

We, the jury in the above-entitled cause, find the defendant Chas. K. Holsman guilty as charged in the indictment, and the defendant Gideon M. Freeman guilty as charged in the indictment. With recommendation of leniency for both.

Los Angeles, California, December 1, 1916.

L. T. BRADFORD,

Foreman.

And said verdict having been read to the jury as so recorded, and the jurors having said that it is their verdict; it is now by the court ordered that said jurors be, and they hereby are excused from attendance upon the court until Tuesday, the 5th day of December,

1916, at 10 o'clock a. m.; and it is further ordered, on motion of Clyde R. Moody, Esq., assistant U. S. attorney, of counsel for the government, that this cause be, and the same hereby is continued until Monday, the 11th day of December, 1916, at 2 o'clock p. m., for the sentence of defendants Freeman and Holsman, said two defendants in the meantime to remain at large on their present bail bonds; and it is further ordered, on like motion, that U. S. Exhibits 33 and 34 may be withdrawn from the files in this cause.

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### **Defendants' Requested Instructions.**

#### **I.**

I instruct you in this case, that the gist of the allegations against the defendants is a conspiracy and the doing of an act or acts, to-wit, the mailing of letters set out in the indictment, in furtherance of the conspiracy.

You cannot find the defendants or either of them guilty of a conspiracy in the case, even though you believe such has existed as charged in the indictment, unless you further believe from the evidence, beyond a reasonable doubt, that the defendants or one of them mailed, or caused to be mailed the letters, or one of the letters set out in the indictment, in furtherance of the alleged conspiracy; because a conspiracy under the United States laws is not a crime, though it is an agreement or understanding to do an unlawful act or acts, unless the overt act or one of them alleged in the indictment is actually committed by the defendant or one of the defendants after the conspiracy is formed and in furtherance thereof, and hence, unless you be-

lieve from the evidence in this case, beyond all reasonable doubt, that the defendants had entered into a conspiracy, as alleged in the indictment, and further, that the defendants, or one of them, in furtherance of said conspiracy actually mailed, or actually caused to be mailed, the letters, or one of them, set out in the indictment, then it would be your duty to acquit the defendants.

DEFENDANTS' REQUESTED INSTRUCTIONS.

II.

I instruct you, that unless you believe from the evidence, beyond a reasonable doubt, that the defendants conspired together as alleged in the indictment, in devising a scheme to defraud, and knowingly used the mails in furtherance thereof, then no statement or act of either defendant should be considered against any other defendant, or defendants in determining whether or not there was a conspiracy as charged in the indictment. That is to say, before the act or acts of any defendant can be used or considered against another defendant or defendants, it must first appear beyond a reasonable doubt that the conspiracy existed, as alleged in the indictment.

DEFENDANTS' REQUESTED INSTRUCTIONS.

III.

I instruct you, that under the law what is known as decoy evidence, such as the sending of the two letters set out in the indictment, by the postoffice inspector, for the purpose of procuring an answer from the defendant, or one of them, may be used for the purpose

of apprehending or ascertaining whether a person is engaged in the commission of a criminal offense against the laws of the United States. But in this charge of conspiracy, unless you believe from the evidence beyond a reasonable doubt, that at the time the said decoy letter or letters were mailed to the defendants or one of the defendants, the said defendants were engaged in the criminal practice charged in the indictment; or unless the defendants had conspired together, as alleged in the indictment at the time of or before the sending said letter or letters by the postoffice inspector, then the evidence of said decoy letters is not alone sufficient upon which to base the verdict of guilty, because a government official cannot conspire with another person to violate the laws of the United States and it is against public policy for a government official to suggest or originate a conspiracy or any other crime, and hence, if you believe from the evidence in this case that a conspiracy as alleged, was suggested and planned by the postoffice inspector, or inspectors, and the defendants were not actually in said conspiracy as alleged, except as shown by a response to the letters of said postoffice inspector, then it will be your duty to acquit the defendants.

#### DEFENDANTS' REQUESTED INSTRUCTIONS.

#### IV.

I instruct you that it is against the policy of the laws of the United States to sustain a prosecution or conviction upon an indictment charging a conspiracy against the laws of the United States if the conspiracy

or plan originated solely in the mind or minds of the government officials, and hence, unless you believe from the evidence in this case, beyond a reasonable doubt, that the defendants at the time alleged in the indictment had formed a conspiracy as therein alleged, without the suggestion and origination of the same by the postoffice inspector, or inspectors, and independent thereof, then it will be your duty to acquit the defendants.

DEFENDANTS' REQUESTED INSTRUCTIONS.

V.

I instruct you that while it may be proper under the laws of the United States for a government officer to use decoy methods in apprehending crime, that is, to ascertain whether or not a person, or persons are actually engaged in an offense against the laws of the United States, nevertheless, the evidence, if any, or the facts or circumstances, if any, procured by said decoy method can only be considered by you in determining the question as to whether or not the defendants had actually entered into the conspiracy as charged in the indictment, and any fact, or facts, or circumstances acquired by said decoy letters are not of themselves sufficient to sustain a verdict of guilty unless you believe from the evidence beyond a reasonable doubt that the defendants had, independent of said decoy letters, entered into the conspiracy at the time and place as alleged in the indictment.

## DEFENDANTS' REQUESTED INSTRUCTIONS.

## VI.

I instruct you that unless you believe from the evidence beyond a reasonable doubt in this case, that the defendants or one of them actually mailed or actually caused to be mailed the letters or one of them, set out in the indictment, then it will be your duty to acquit the defendants, because unless the defendants, or one of them knew of, or in some way authorized the mailing of the letter, or letters set out in the indictment, then the defendants would not be guilty, regardless of whether or not you may believe there was, or was not, a conspiracy between them.

## DEFENDANTS' REQUESTED INSTRUCTIONS.

## VII.

I instruct you that a person cannot, as the agent or employee of another in any business, bind his employer in a criminal proceeding or charge, and his employer is not responsible for the acts of the employee in committing a criminal offense, unless you believe from the evidence beyond a reasonable doubt, that the employer in some way knew of the act or acts of the employee, alleged to be criminal, or in some way authorized the act or acts of the employee; and hence, unless you believe from the evidence, beyond a reasonable doubt, that the defendants in some way knew of, or intentionally authorized the mailing of the letter or letters set out in the indictment, then it will be your duty to acquit the defendants.



## DEFENDANTS' REQUESTED INSTRUCTIONS.

## VIII.

I instruct you that before you can find a verdict of guilty against the defendants in this case, that you must find that all of the following conditions exist:

(a) That there was a conspiracy between them, as alleged in the indictment.

(b) That the object of that conspiracy was that the said defendants should devise a scheme or plan to defraud the persons, as alleged in the indictment, and

(c) That said defendants intended the use of the United States mails in carrying out or in the furthering of the object of such conspiracy.

And it is necessary before you are authorized to find a verdict of guilty in this case, that you believe all of the above elements to exist in this case. It is not sufficient that one of them exist, but they all must have existed, as alleged in the indictment, and to your satisfaction, beyond a reasonable doubt, before you are authorized to convict the defendants.

## DEFENDANTS' REQUESTED INSTRUCTIONS.

## No. IX.

I instruct you that the principal or master is not criminally liable for the acts of his agent or servant even though done in the general course of his employment, unless such acts of the agent or servant are authorized or consented to by the principal or master and that no authority to do a criminal act will be presumed. Hence, unless you believe from the evidence in this case, beyond a reasonable doubt, that the defendant,

Holsman, actually mailed the letter or letters set out in the indictment, or caused the same to be mailed, or in some way knowingly authorized or acquiesced in the mailing thereof in furtherance of the scheme as charged in the indictment, then it will be your duty to acquit him, even though you may believe from the evidence that the defendant Sims was employed by the defendants to care for the correspondence and answering letters, even though you believe that the answering of letters by the defendant Sims was in the course of his employment.

DEFENDANTS' REQUESTED INSTRUCTIONS.

No. X.

I instruct you that under this charge of conspiracy, before you are authorized to convict the defendants, or either of them, you must believe beyond a reasonable doubt, that they had an understanding or agreement between or among themselves to defraud any and all persons who could be induced to write to them as charged in the indictment. And further, as a part of said conspiracy they intended the use of the mails in furtherance of said conspiracy.

The first question for you to consider is, was there a conspiracy? That is to say, did the defendants conspire or agree together and between or among themselves to commit the offense against the United States, as charged in the indictment? And, in the next place, did they enter into an agreement, or plan by which it was agreed or understood between or among themselves that they would defraud any and all persons, as charged in the indictment? And, in the next place, did they

knowingly or intentionally mail, or cause to be mailed either of the letters charged in the indictment?

Before you are authorized to convict the defendants or either of them, you must believe beyond a reasonable doubt, that they intended to defraud in the manner and by the use of the means set out in the indictment.

If the defendants, acting as specialists in the treatment of diseases acted in good faith and honestly believed in the representations which they made, if any, and did not by any of their said acts, as charged in the indictment, intend to defraud any person or persons, then it is your duty to acquit the defendants.

#### DEFENDANTS' REQUESTED INSTRUCTIONS.

##### XI.

I instruct you that though you may believe from the evidence that the defendant Holsman was financially interested in the office conducted at Los Angeles at the time alleged in the indictment, yet unless you believe from the evidence beyond a reasonable doubt, that he knew of or consented to or in some way authorized the mailing of the letters or one of them set out in the indictment, then you cannot convict him, and it will be your duty to find a verdict of not guilty as to him.

##### No. 12.

I instruct you that it is not a violation of the laws of the United States for a physician to advertise in his profession or to advertise his method of treatment. ~~That before you can convict the defendants or either of them, you must be convinced beyond all reasonable doubt that they conspired to use the mails as set out~~

in the indictment and for the purposes alleged in the indictment.

You are not to be influenced and must not be influenced to any extent in the consideration of this case by prejudice, if any should come into your minds, against a professional man advertising.

[Endorsed]: No. 903 Crim. U. S. District Court, Southern District of California, Southern Division. United States of America vs. Chas. K. Holsman, et al. Instructions requested by deft. Holsman. Filed Dec. 1, 1916. Wm. M. Van Dyke, clerk; by Geo. W. Fenimore, deputy clerk.

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### Instruction Given.

Gentlemen of the Jury:

The indictment in this case was brought under sections 37 and 215 of the United States Criminal Code, the former section being, in substance, as follows:

"If two or more persons conspire \* \* \* to commit an offense against the United States \* \* \* and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be" punished as prescribed in said section.

The offense which it is alleged the defendants conspired to commit was a violation of said section 215, which is, in substance, as follows:

"Whoever having devised, or intending to devise, any scheme or artifice to defraud \* \* \* shall, for the purpose of executing said scheme or artifice, or attempting so to do, place or cause to be placed, any letter \* \* \* in any postoffice \* \* \* of the

United States \* \* \* to be sent or delivered by the postoffice establishment of the United States, shall be punished" as in said section prescribed.

The indictment in this case is against Charles K. Holsman, Henry L. Giles, Gideon M. Freeman, Ambrose C. Sims and Otto C. Joslin (since deceased). Only two of the defendants indicted, namely—Charles K. Holsman and Gideon M. Freeman, are now on trial. There being five persons named in the conspiracy, it is not necessary for the government to show that both Holsman and Freeman are guilty. That is to say, it is not necessary to show that they conspired together. It is sufficient to show that they or either of them conspired with any of the other defendants. It is necessary, of course, that two persons be in a conspiracy. Therefore, you can convict either one or both of the defendants on trial, and the instructions hereafter, when they refer to and speak of defendants, refer to either of the defendants. Before you can convict either of the defendants it must be shown that he conspired with one of the other defendants named in the indictment.

The charge against the defendants on trial, comprehensively stated, is that they conspired together or with one of the other persons named in the indictment, first to devise a scheme to defraud, and that they did devise such scheme to defraud as set out in the indictment, and, second, that they likewise conspired to place or cause to be placed in the postoffice of the United States, at the city of Los Angeles, California, letters addressed to persons intended to be so defrauded, to be sent and delivered to said persons by the postoffice establishment

of the United States for the purpose of executing said scheme or attempting so to do, and, third, that the defendants for the purpose of effecting and executing said scheme, or attempting so to do, placed or caused to be placed in said postoffice, one of the letters set forth in the indictment. Said conspiracy and scheme are fully set forth and described in the indictment which has been read to you and will, if you desire it, be with you in the jury room; therefore, it need not be restated here.

The defendants on trial, of course, cannot be convicted except upon proof of the particular charge stated in the indictment, and the evidence in the case should satisfy your minds that a scheme to defraud was devised as set forth, and that part of the scheme was to use the mails as described in the indictment.

You will observe that the offense charged against the defendants is not that of using the mails, in execution of a fraudulent scheme, but of conspiracy to so use the mails.

You will be called upon to consider, among others, the following questions:

Was there such a conspiracy, as alleged in the indictment? And did the defendants for the purpose of effecting the objects of the conspiracy, place or cause to be placed in said postoffice, to be sent and delivered by mail, the letters described in the indictment, or either of them?

If the evidence satisfies you beyond a reasonable doubt of the existence of said conspiracy, and that defendants, for the purpose of effecting the objects of said conspiracy, placed or caused to be placed in said



postoffice, to be sent and delivered by mail, said letters, or either of them, you will find the defendants guilty as charged in the indictment. If, however, the evidence fails to so satisfy you of the existence of said conspiracy, or that defendants, for the purpose of effecting the objects of said conspiracy, placed or caused to be placed either of said letters in said postoffice, to be sent and delivered by mail, you will find defendants not guilty.

The court further instructs you that a conspiracy is a combination between two or more persons to do a criminal or unlawful act, or a lawful act by criminal or unlawful means.

From this definition of conspiracy it follows, of course, that there can be no conspiracy where one individual acts by or for himself only.

A mere mental purpose cannot justify a conviction of conspiracy. A common design is of the essence of the charge

A person, therefore, in order to become a party to a conspiracy, must combine with someone else to effect the objects of the conspiracy by the means agreed upon.

The court further instructs you that, to constitute a conspiracy it is not necessary that there should be an explicit or formal agreement between the alleged conspirators.

Though the common design is of the essence of the charge it is not necessary to prove that the defendants came together and actually agreed in terms to have that design, and to pursue it by common means. If it be proved that the defendants pursued by their acts the same object, often by the same means, one performing

one part and another another part of the same so as to complete it, with a view of attaining the same object, the jury will be justified in the conclusion that they were engaged in a conspiracy to effect that object.

The evidence in proof of a conspiracy may be, and from the nature of the case generally will be, circumstantial.

The court, however, further instructs you that, where circumstantial evidence is relied upon to establish the conspiracy, or any other fact, it is not only necessary that all the circumstances concur to show the existence of the conspiracy, or other fact sought to be proved, but such circumstantial evidence must be inconsistent with any other rational conclusion.

If the evidence can be reconciled either with the theory of innocence or with guilt, the law requires that the defendant be given the benefit of the doubt, and that the theory of innocence be adopted.

You are further instructed, with reference to the proof of mailing the letters set up in the indictment, that it is not essential to the commission of the offense charged, that such letters be deposited in the mail by the defendants themselves, or even by another acting under their express direction, because a person is equally responsible for the mailing of any particular letter if it is deposited in the postoffice as a natural or probable consequence of any act intentionally done by such person with knowledge at the time thereof that such act will naturally and probably result in the mailing of such letter.

You are further instructed that a person is responsible for the mailing of any letter if he sets in

operation and makes use of any agency which, as he knows at the time, would according to its established and regular course, carry such letter through the mail to the person or persons to whose attention he designed such letter be brought.

The court further instructs you that, while the acts or declarations of a co-conspirator cannot prove the existence of the conspiracy itself, any act or declaration done or made by one of the conspirators during the existence and in furtherance of the unlawful combination when proven, is not only evidence against him, but is evidence against the other conspirator who, if the combination is proved, is as much responsible for such act or declaration as if done or made by himself.

You must not, however, permit yourself to use against either defendant, anything said or done outside the presence of such defendant, unless you believe from the evidence, beyond a reasonable doubt, that at the time the things were said or done a conspiracy existed between the party saying and doing the things and the defendant to be effected thereby. In such a case it is only those things said or done in furtherance of the objects of the conspiracy which are chargeable against the other member or members of such conspiracy.

You are further instructed that the official postmark of the Los Angeles postoffice on the envelope enclosing one of the letters set forth in the indictment, and which has been introduced in evidence, is *prima facie* proof that said letter was mailed at said postoffice.

It is lawful that what is known as decoy letters, such as the letters sent by the postoffice inspector in this case for the purpose of procuring an answer from the

defendants, or one of them, may be used for the purpose of ascertaining whether the person addressed is engaged in the commission of a criminal offense against the laws of the United States. If at the time the said decoy letter or letters were mailed to the defendants, or one of the defendants, the said defendants were engaged in the criminal practice charged in the indictment, and the said defendants in response to said alleged decoy letters, mailed one or both of the letters set forth in the indictment in answer to such decoy letters, or either of them, in order to execute or carry out such conspiracy, or in an attempt so to do, then the use of such decoy letters and the answers thereto can lawfully be received as evidence to prove said conspiracy.

A government official cannot conspire with another person to violate the laws of the United States for the purpose of getting such person convicted of a crime. The conspiracy with which the defendants are charged must be proven to exist independently of any inducement to enter therein by any government official. In other words, if the conspiracy existed, it does not matter what the government officers did in order to procure evidence to prove it.

It is admitted by the government in this case that each of the letters set out in the indictment and alleged therein to be the overt acts pursuant to the accomplishment of the purpose of the conspiracy alleged in the indictment, were received by the addressees therein respectively in reply to letters respectively addressed to the defendant G. M. Freeman, M. D., either by a United States postal inspector, or by another procured by

the inspector so to do, and that the letters so addressed to said defendant were addressed to him for the purpose of giving to the government information as to whether or not the defendants charged in the indictment were engaged in an unlawful use of the mails. These letters so addressed to said defendants may be properly designated as decoy letters. You are instructed that the fact that the letters alleged in the indictment were in reply to such decoy letters is no defense in this action. You are further instructed that a government officer suspecting that a person or persons may be engaged in a business ~~offensive to good morals or~~ in violation of the laws of the United States, has a right to seek information under an assumed name, directly from such person or persons so suspected. That if such suspected person or persons respond to such inquiry for such information, and by so responding violates a law of the United States by using the mails to convey such information, which use of the mails is prohibited by law, then such person or persons so using the mails cannot, when indicted for that offense, set up that he would not have violated the law if the inquiry had not been made of him by the government official or through the procurement of the government official. ~~You are therefore instructed that it is immaterial in this case that the said letters set out in the indictment were written and transmitted through the mails in answer to decoy letters, which decoy letters were procured to be sent by a government official.~~

Grimm vs. United States, 156 U. S. 605;

Goode vs. United States, 159 U. S. 669;

Montgomery vs. United States, 162 U. S. 410.



The court further instructs you that you are the sole judges of the facts and credibility of witnesses, and, in passing upon the credibility of witnesses you may consider, together with all the evidence in the case, their intelligence or lack thereof; their relation to the controversy and to the parties; the interest, if any, they have in the result of the trial; their prejudices and motives; their hopes and fears; their bias or impartiality; the reasonableness or otherwise of the statements they make—together with their manner upon the witness stand, and should give to their testimony such weight as you believe it entitled to receive.

If a witness is shown knowingly to have testified falsely on the trial touching any material matter here involved, the jury may distrust his testimony in other respects, and are at liberty to reject the whole or any part of it.

The court further instructs you that the law permits a defendant, at his own request, to testify in his own behalf.

The defendant Freeman has availed himself of this privilege, and his testimony is to be treated like the testimony of any other witness—that is, it is for you to say, remembering his testimony, his demeanor on the witness stand, his interest in the result of the trial, together with all the evidence in the case, whether or not he has told the truth.

You are instructed that you are not to consider the failure of any defendant to take the witness stand as having any bearing whatever on the question of his guilt or innocence, and you should not allow the fact



that any defendant has failed to testify in his own behalf to influence you in the slightest degree.

I instruct you that it is not a violation of the laws of the United States for a physician to advertise in his profession or to advertise his method of treatment. You are not to be influenced and must not be influenced to any extent in the consideration of this case by prejudice, if any should come into your minds, against a professional man advertising.

The court further instructs you that neither the finding of an indictment, nor any allegation thereof, raises any presumption whatever of the defendant's guilt, but the burden of proof is upon the government, and that the law presumes the defendant innocent until proven guilty beyond a reasonable doubt, and that this rule applies to every material element of the offense charged. The court further instructs you that a reasonable doubt is a doubt which is reasonable in view of all the evidence, and if, after an impartial comparison and consideration of all the evidence, you can candidly say that you are not satisfied of the defendant's guilt, you have a reasonable doubt; but if, after such impartial comparison and consideration of all the evidence, you can truthfully say that you have an abiding conviction of the defendant's guilt, such as you would be willing to act upon in the more weighty and important matters relating to your own affairs, you have no reasonable doubt.

You are instructed that a defendant in a criminal case is entitled to the individual opinion of each member of the jury, and that no member of the jury should vote for a conviction of such defendant because of the

opinion of the other members of the jury, so long as he has a reasonable doubt as to the guilt of such defendant, but this does not mean that you should not consult together and try and agree upon a verdict.

[Endorsed]: No. 903 Criminal. U. S. District Court, Southern District of California, Southern Division. United States of America vs. Chas. K. Holsman et al. Instructions given. Filed Dec. 1, 1916. Wm. M. Van Dyke, clerk; by Geo. W. Fenimore, deputy clerk.

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*In the District Court of the United States, in and for  
the Southern District of California, Southern Division.*

No. 903 Crim.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHAS. K. HOLSMAN and GIDEON M. FREEMAN,

Defendants.

**Verdict.**

We, the jury in the above-entitled cause, find the defendant Chas. K. Holsman guilty as charged in the indictment, and the defendant Gideon M. Freeman guilty as charged in the indictment, with recommendation for leniency for both.

Los Angeles, California, December 1, 1916.

L. T. BRADFORD,

Foreman.

[Endorsed]: No. 903. Criminal. U. S. District

Court, Southern District of California, Southern Division. United States of America vs. Chas. K. Holsman *et al.* Verdict. Filed Dec. 1, 1916. Wm. M. Van Dyke, clerk; by Geo. W. Fenimore, deputy.

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*In the District Court of the United States, Southern  
District of California, Southern Division.*

No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

### **Motion for New Trial.**

Comes now the defendant, Chas. K. Holsman, one of the defendants in the above entitled cause, and moves this court to vacate and set aside the verdict of guilty rendered herein and recorded on December 1st, 1916, and grant to this defendant a new trial herein for the following reasons:

#### **I.**

That the said verdict is contrary to the evidence.

#### **II.**

That the said verdict is contrary to the law.

#### **III.**

That the court misdirected the said jury in matters of law, to which the defendant then and there duly excepted.

#### **IV.**

That the court erred in the decision of questions of law and the admission and rejection of evidence during

the course of the trial, to which the said defendant then and there duly excepted.

V.

That the said court erred in certain particulars of its general charge to the jury, each of which errors were excepted to by the defendant at the time.

VI.

That the court erred in refusing to give to the jury certain instructions requested by the defendant, to which refusal the defendant then and there duly excepted.

VII.

That the court erred in refusing to admit in evidence a certain lot of letters and correspondence offered by the defendant relating to the conduct of the business complained of, the same being the Defendant's Exhibit (1) *et seq.*

VIII.

That the court erred in admitting in evidence against this defendant that certain affidavit made by the defendant Gideon M. Freeman and which contained a statement against this defendant as there had been no proof of a conspiracy at the time of said admission; to which admission of evidence the defendant then and there duly excepted.

IX.

The court erred in admitting in evidence two bound volumes of the Los Angeles Examiner for the months of July and August, 1912, each of which purported to contain certain advertisements of the defendants, because no foundation whatever had been laid for ad-

mission of the same; to which admission the defendant then and there duly excepted.

X.

Misconduct on the part of the counsel for the government which prevented the defendant from having a fair and impartial trial, to which defendant then and there duly excepted.

XI.

That there were other errors of law appearing upon the trial prejudicial to the defendant and to which he then and there duly excepted.

XII.

That the court erred in refusing to sustain the demurrer of the defendant to the indictment herein, to which the defendant then and there duly excepted.

That this motion for a new trial will be made and based upon the minutes of the court, including the notes of the evidence taken on the trial by the shorthand reporter and any and all records of this cause including the indictment, proceedings, records, exhibits, instructions and evidence offered and received, and any and all papers and pleadings on file in this cause and all motions made herein.

Dated this December 11th, 1916.

DUKE STONE,

Attorney for Said Defendant.

[Endorsed]: Original. Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman *et al.*, defendants. Motion for new trial. Copy of within rec'd this Dec. 11-'16. Clyde R. Moody, Asst. U. S. Atty.

Filed Dec. 11, 1916. Wm. M. Van Dyke, clerk; Geo. W. Fenimore, deputy. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for said defendant.

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*In the District Court of the United States, Southern  
District of California, Southern Division.*

No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN, et al.,

Defendants.

### **Motion for New Trial.**

Comes now the defendant, Gideon M. Freeman, one of the defendants in the above entitled cause, and moves this court to vacate and set aside the verdict of guilty rendered herein and recorded on December 1st, 1916, and grant to this defendant a new trial herein for the following reasons:

#### **I.**

That the said verdict is contrary to the evidence.

#### **II.**

That the said verdict is contrary to the law.

#### **III.**

That the court misdirected the said jury in matters of law, to which the defendant then and there duly excepted.

#### **IV.**

That the court erred in the decision of questions of law and the admission and rejection of evidence during



the course of the trial, to which the said defendant then and there duly excepted.

V.

That the said court erred in certain particulars of its general charge to the jury, each of which errors were excepted to by the defendant at the time.

VI.

That the court erred in refusing to give to the jury certain instructions requested by the defendant, to which refusal the defendant then and there duly excepted.

VII.

That the court erred in refusing to admit in evidence a certain lot of letters and correspondence offered by the defendant relating to the conduct of the business complained of, the same being the Defendant's Exhibit (1) *et seq.*

VIII.

The court erred in admitting in evidence two (2) bound volumes of the Los Angeles 'Examiner' for the months of July and August, 1912, respectively, each of which purported to contain certain advertisements of the defendants, because no foundation whatever had been laid for the proper admission of the same; to which admission the said defendant then and there duly excepted.

IX.

Misconduct on the part of the counsel for the government which prevented the defendant from having a fair and impartial trial; to which said misconduct the said defendant then and there duly excepted.

X.

That there were certain errors of law appearing upon the trial of this cause prejudicial to this defendant and to which errors he then and there duly excepted.

XI.

That the court erred in refusing to sustain the demurrer of the defendant to the indictment herein, to which refusal the defendant then and there duly excepted.

That this motion for a new trial in the above entitled cause will be made and based upon the minutes of the court, including the notes of the evidence taken on the trial by the shorthand reporter and any and all records of this cause including the indictment, all proceedings, records, exhibits, instructions and evidence offered and received, and any and all papers and pleadings on file in this cause and all motions made herein.

Dated this 11th day of December, 1916.

MACK E. MEADER,

Attorney for Said Defendant Gideon M. Freeman.

[Endorsed]: No. 903 Crim. In United States District Court, Southern District of California, Southern Division. United States of America vs. Charles K. Holsman *et al.*, defendants. Motion for new trial. Copy of within rec'd this Dec. 11, 1916. Clyde R. Moody, Asst. U. S. Atty. Filed Dec. 11, 1916. Wm. M. Van Dyke, clerk; Geo. W. Fenimore, deputy. Mack E. Meader, Los Angeles, Cal., #532 Higgins Bldg., solicitor for the defendant, Gideon M. Freeman. Attorney for said defendant.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

**Motion of Charles K. Holsman in Arrest of  
Judgment.**

Comes now defendant Charles K. Holsman and moves the court in errest of the judgment in the above entitled cause upon the following ground:

The indictment herein fails to charge any offense under any statute of the United States.

DUKE STONE,

Attorney for Said Defendant.

[Endorsed]: Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman, *et al.*, defendants. Motion of Charles K. Holsman in arrest of judgment. Rec'd copy of the within motion this 5th day of Jan., '17. C. R. Moody, Asst. U. S. Atty. Filed Jan. 5, 1917. Wm. M. Van Dyke, clerk; Geo. W. Fenimore, deputy. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for said defendant.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIDEON M. FREEMAN, *et al.*,

Defendants.

**Motion of Gideon M. Freeman in Arrest of  
Judgment.**

Comes now defendant, Gideon M. Freeman, and moves the court in arrest of the judgment in the above entitled cause upon the following ground:

The indictment herein fails to charge any offense under any statute of the United States.

M. E. MEADER,

Attorney for Said Defendant.

[Endorsed]: Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Gideon M. Freeman *et al.*, defendants. Motion of Gideon M. Freeman in arrest of judgment. Rec'd copy of the within this 5th day of Jan., 1917. C. R. Moody, Asst. U. S. Atty. Filed Jan. 5, 1917. Wm. M. Van Dyke, clerk; Geo. W. Fenimore, deputy. M. E. Meader, 532 Higgins Building, Los Angeles, California. Phone: F-2132. Attorney for said defendant.

**Copy of Minute Order.**

At a stated term, to wit: the July term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the court room thereof, in the city of Los Angeles, on Friday, the fifth day of January, in the year of our Lord one thousand nine hundred and seventeen:

Present:

The Honorable Oscar A. Trippet, district judge.

No. 903 Crim. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

This cause coming on this day to be heard on the separate motions of defendants Charles K. Holsman and Gideon M. Freeman for a new trial, and also coming on for the sentence of said defendants Holsman and Freeman; Clyde R. Moody, Esq., and William F. Palmer, Esq., assistant U. S. attorneys, appearing as counsel for the United States; defendants Holsman and Freeman being present on bail, with their counsel, Duke Stone, Esq., and Mack Meader, Esq.; W. C. Wren being present as shorthand reporter of the proceedings, and acting as such; and said motions for new trial having been argued, in support thereof, by Duke Stone, Esq., of counsel for defendants, and in opposition thereto by Clyde R. Moody, Esq., assistant U. S. attorney, of counsel for the United States; and court,

at the hour of 10:54 o'clock a. m., having taken a recess for 10 minutes; and now, at the hour of 11:04 o'clock a. m., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and W. C. Wren, shorthand reporter, having read certain matter from his shorthand notes of testimony and proceedings taken at the trial of this cause; and said motions for new trial having been further argued, in opposition thereto, by Clyde R. Moody, Esq., assistant U. S. attorney, of counsel for the United States, and in support thereof in reply by Duke Stone, Esq., of counsel for defendants; and the court having announced its conclusions regarding said motions; it is now by the court ordered that each of said motions of defendants Holsman and Freeman for new trial be, and the same hereby is overruled; to which ruling of the court, on motion of defendants Holsman and Freeman and by direction of the court, exceptions are hereby noted herein on behalf of said defendant Holsman and also on behalf of said defendant Freeman; and separate motions in arrest of judgment having been filed in open court on behalf of defendants Holsman and Freeman; and said motions in arrest of judgment having been argued, in support thereof by Mack Meader, Esq., of counsel for said defendants, it is now by the court ordered that said separate motions of defendants Holsman and Freeman in arrest of judgment be, and each of said motions hereby is denied, to which ruling of the court, on motion of defendants Holsman and Freeman and by direction of the court, exceptions are hereby noted herein on behalf of said defendant Holsman and also on behalf of said defendant Free-



man; it is thereupon, at the hour of 11:56 o'clock a. m., ordered that this cause be, and the same hereby is continued until the hour of 2 o'clock p. m. of this day for the sentence of defendants Holsman and Freeman.

No. 903 Crim. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

This cause coming on at this time for the sentence of defendants Charles K. Holsman and Gideon M. Freeman; Clyde R. Moody, Esq., and William F. Palmer, Esq., assistant U. S. attorneys, appearing as counsel for the United States; defendants Holsman and Freeman being present on bail, with their counsel, Duke Stone, Esq., and Mack Meader, Esq.; and statements in mitigation of sentence having been made by Mack Meader, Esq., and by Duke Stone, Esq., of counsel for defendants; the court thereupon pronounces sentence upon said defendants Freeman and Holsman for the offense of which they now stand convicted, namely, the offense of violation of section 37 of the United States Criminal Code, conspiracy to violate section 215 of said United States Criminal Code, using mails in scheme to defraud, as follows, to wit: the judgment of the court is that the defendant Gideon M. Freeman pay a fine of fifteen hundred (1500) dollars, and that he stand committed to the county jail of Los Angeles county, California, until said fine is paid, and that the defendant Charles K. Holsman pay a fine of fifteen hundred (1500) dollars and be imprisoned in the county jail of

Los Angeles county, California, for the term of three (3) months, and that said defendant Holsman stand further committed to said county jail of Los Angeles county, California, until said fine is paid; to which sentences of the court on motion of defendants Freeman and Holsman & by direction of the court exceptions are hereby noted herein on behalf of defendant Gideon M. Freeman and also on behalf of defendant Charles K. Holsman; whereupon, on motion of defendants, it is ordered that said defendants Freeman and Holsman be, and they are hereby granted a stay of execution of judgment herein for ten (10) days; and, good cause appearing therefor, it is further ordered that the said defendants Gideon M. Freeman and Charles K. Holsman be allowed to be at large upon their present bonds until the 10th day of January, 1917, and it is further ordered that the bond on writ of error herein is hereby fixed in the sum of three thousand (3000) dollars as to each of said defendants Freeman and Holsman.

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*In the District Court of the United States, in and for  
the Southern District of California, Southern Di-  
vision.*

No. 903 Crim.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHARLES K. HOLSMAN, et al.,

Defendants.

I, Wm. M. Van Dyke, clerk of the District Court of the United States for the Southern District of Cali-

fornia, do hereby certify the foregoing to be a full, true and correct copy of an original judgment entered in the above-entitled cause; and I do further certify that the papers hereto annexed constitute the judgment roll in said cause.

Attest my hand and the seal of said District Court, this 10th day of January, A. D. 1917.

(Seal)

WM. M. VAN DYKE,

Clerk.

By Geo. W. Fenimore,

Deputy Clerk.

[Endorsed]: No. 903 Crim. In the District Court of the United States for the Southern District of California, Southern Division. United States of America vs. Charles K. Holsman *et al.* Judgment roll. Filed January 10, 1917. Wm. M. Van Dyke, clerk; by Geo. W. Fenimore, deputy clerk. Recorded min. bk. book No. 27, page 24.

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*In the District Court of the United States, Southern District of California, Southern Division.*

Case No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON FREEMAN,

Defendants.

**Bill of Exceptions on Behalf of Defendants, Charles  
K. Holsman and Gideon M. Freeman.**

To Albert Schoonover, United States Attorney; W. F.  
Palmer and Clyde R. Moody, Assistant United  
States Attorneys:

Herewith is tendered to you and each of you and  
within the time provided by order of the court, the de-  
fendants' proposed bill of exceptions in the foregoing  
entitled cause.

Dated Los Angeles, California, this 27 day of Feby.,  
1917.

DUKE STONE,  
MACK MEADER,  
Attorneys for Defendants.

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*In the District Court of the United States, Southern  
District of California, Southern Division.*

Case No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON M. FREE-  
MAN,

Defendants.

PROPOSED BILL OF EXCEPTIONS ON BEHALF OF DE-  
FENDANTS CHARLES K. HOLSMAN AND GIDEON M.  
FREEMAN.

Be it remembered that heretofore the grand jury of  
the United States of America, in and for the Southern  
District of California, Southern Division, did find and  
return in the above-entitled court its indictment against

Charles K. Holsman and Gideon M. Freeman, among other persons, therein alleged to be co-conspirators, and thereafter said Charles K. Holsman and Gideon M. Freeman appeared in said court and entered their pleas to said indictment after demurrer thereto overruled, to which an exception was taken and allowed, and the case being at issue the same came on for trial on November 28th, 1916, before the said District Court, Honorable Oscar A. Trippet presiding; the United States of America, plaintiff, represented by William F. Palmer and Clyde R. Moody, assistant United States attorneys, and the defendants being represented by Duke Stone, George S. Hupp and Mack Meader. Upon instructions the clerk read the indictment upon which the defendants were to be tried to the jury which had theretofore been duly impanelled and sworn to try the case. Thereupon the following proceedings were had.

### **Testimony of Byron J. Badham.**

“My name is Byron J. Badham. My father-in-law owns the premises at 327½ South Spring street. I identify the lease shown me as United States Exhibit No. 1.” (The lease was thereupon read to the jury by the assistant United States attorney as Government’s Exhibit 1) and which lease was dated May 22d, 1912, and between E. A. Hoffman, the lessor, and Henry L. Giles and Charles K. Holsman, lessees, the latter two being two of the defendants in this cause, and which lease covered the second floor of the building at 327½ South Spring street, for the purpose of carrying on the business of physicians and surgeons and was for the period of five years.

**Testimony of Dr. Frank C. Fuller.**

"My name is Frank C. Fuller. I am a physician. I know Doctors Holsman and Freeman. I first met Dr. Holsman sometime in the summer of 1912 at 327½ South Spring street, and first met Dr. Freeman about a year prior to that. In 1912 I was employed at 327½ South Spring street. I think I began there about the third week of May, 1912, and worked until the next May, about the middle of the month. When I first went to work the office was situated at 305½ South Spring street and shortly after May, 1912, the offices were removed to 327½ South Spring street and Doctor Freeman was in this same office. Dr. Freeman left the offices at No. 327½ sometime in April, 1913, and I was there about 30 days after he left. I saw Doctor Holsman at 327½ South Spring street for about three weeks which I think was the latter part of July, 1912. I think he was at this address every day during these three weeks. He had charge of the office during Doctor Freeman's absence. He was not there more than once or twice after that to my knowledge and this was at the latter part of the year 1912."

**Cross-Examination**

of said Frank C. Fuller.

"I was employed at 327½ South Spring street to treat patients under the supervision of Doctor Freeman. I was working on a salary. While I was there Doctor Freeman was in charge of the office and Miss Wilhelm was the stenographer. Mr. Sims (one of the defendants herein) was the man in charge of the drugs and



(Testimony of Dr. Frank C. Fuller.)

had charge of the moneys. I was in the office at said address for about a year and Doctor Holsman was only there for about three weeks in the summer of 1912 and for a few days a little later in the year. I think Doctor Holsman did treat patients while he was there." At this point it was attempted to be shown by the witness what the equipment of the office consisted of, particularly as to the drug room and what it contained, that is, the amount and extent of the drugs and the supply and how it was kept up; and as to whether or not there was a static machine there for the treatment of diseases; and who had charge of and did the work of receiving and answering letters. On objection of counsel for the government that said cross-examination was not competent cross-examination and incompetent, irrelevant and immaterial, the court sustained the objection to this line of cross-examination, to which the defendants and each of them excepted.~~34~~ Whereupon this witness was temporarily excused from the witness stand.

#### GOVERNMENT EXHIBIT NO. 1-A.

When the witness Dr. F. C. Fuller was excused from the stand the following proceedings occurred, to wit:

By Mr. Moody, assistant U. S. attorney:

"If the court please, I desire to introduce into evidence an affidavit which I hold in my hand, and which counsel has examined.

Mr. Stone: To this we object, and I make the objection on behalf of the defendant Holsman, as hearsay; and we object on behalf of the other defendant as

incompetent, irrelevant and immaterial. It has no bearing on the issues whatever.

Mr. Moody: Does the court desire to examine the document and pass on it?

The Court: Well, Mr. Moody, I have an objection here as being incompetent. I don't see how you can introduce it unless you prove it was executed.

Mr. Stone: Your Honor got the objection as to the other defendant, that it was hearsay?

Mr. Moody: I don't think there is any dispute about the execution of it, is there?

Mr. Stone: Well, I don't know.

Mr. Moody: Well, if there is any dispute, I will remove the dispute. I presumed there would not be, in view of the signature that is on there. If there is any dispute, I will call a witness to prove its execution.

Mr. Hupp: There is no dispute as to the signatures.

The Court: What is that?

Mr. Hupp: There is no dispute as to the signatures.

Mr. Moody: No dispute as to the signatures.

The Court: Let me see it.

(The paper was handed to the court.)

The Court: The objection will be overruled.

Mr. Moody: Mark it as United States Exhibit Number 2. I desire that that be marked United States Exhibit 1-A, in order that the other exhibits may be kept in the proper order, and save the clerk re-marking the entire number that we expect to be introduced.

Mr. Stone: Let the defendant Holsman have an exception to that ruling as to him, on the ground that it is hearsay as to him.

The Court: Yes, sir.

Mr. Hupp: And exception on the part of the defendant Freeman.

Mr. Moody: (Reading.) "State of California, county of Los Angeles, s s"—

The Court: Just a moment, Mr. Moody.

Mr. Stone: That the record may show, in a conspiracy charge it would not be admissible as a declaration of one of the conspirators at this stage of the trial; and, secondly, it is hearsay pure and simple against the defendant Holsman.

The Court: What is the date of it?

Mr. Moody: September 11, 1911.

The Court: Well, Mr. Moody, it could only go in as a statement or declaration of one of the conspirators, after the formation of the conspiracy, and while it was existing.

Mr. Stone: If there was one.

The Court: And while it was existing. It seems to me like—

Mr. Hupp: You will notice, if the court please, if the court will permit me, on page 1 of the indictment it is alleged that the conspiracy was entered into in the year 1912, whereas this paper that they have offered was a year prior to that time, and therefore would be clearly inadmissible as being outside the issues and before the conspiracy was originated.

Mr. Palmer: Of course, Your Honor, the allegation of a date in an indictment is subject to the proof, and it is not a material allegation, provided that the date is before the time of the returning of the indictment. That is a well acknowledged principle of law. And the fact that this is alleged to have been in 1912, and

that this evidence applies to 1911—we have already had a witness on the stand that shows that the very office that is alleged here was moved from the place that is stated in this affidavit, 305½ South Spring street, to the place that is mentioned in the indictment. So that it is connected, and connecting these people together at that time. And the fact that it is alleged the conspiracy was formed in 1912 cannot keep us from showing it, provided we show it was formed at a time before the returning of the indictment, and the overt act—

The Court: I don't think that the dates are very material in this thing, but then your statement here is—

Mr. Stone: If Your Honor will pardon me for making this additional statement, I understand the rule to be in a conspiracy charge that you cannot admit the statements of any one of the alleged conspirators against another alleged conspirator until the government has first proved *prima facie* a conspiracy.

The Court: Yes.

Mr. Stone: There is no doubt about that being the law. Now my first objection, then, is to the fact that there is no evidence of a conspiracy so far in this trial. In the second place, that any affidavit would be hearsay as to parties who did not make the affidavit. Now, Your Honor would not for a minute admit testimony if one of the defendants should have stated to somebody that certain people were practicing in an office on a certain date; that would be pure hearsay, whether it is in writing or verbal.

Mr. Palmer: This affidavit is a paper which is required to be made by law, and made by one of these

defendants. It is a record of an office required to be made by law, and he has made this, so that it cannot possibly be hearsay so far as that defendant is concerned.

The Court: That is entirely so. There is no doubt about that. But the other defendant has got to be considered. He makes an objection to it.

Mr. Palmer: Now we have connected—

The Court: Now what proof is here about their office at 305½ South Spring street?

Mr. Palmer: The testimony of Doctor Fuller, just on the stand. He testified that at the time of his employment, in May, 1912, that the office was at 305½ South Spring street, and that afterwards, in about June or July of that year, it was removed to 327½.

The Court: All right. I didn't understand those numbers. I will overrule the objection.

Mr. Stone: To which the defendants, and each of them, if Your Honor please, except. *Ex. 2.*

(Thereupon Mr. Moody read to the jury the paper so offered and received in evidence, the same being in the words and figures following, to-wit:)

‘PLAINTIFF’S EXHIBIT NO. 1-A.  
AFFIDAVIT.

State of California, County of Los Angeles—ss.

G. M. Freeman, being first duly sworn, deposes and says: I am a physician duly licensed by the State Board of Medical Examiners of the state of California, and am practicing medicine at number 305½ South Spring street in the city of Los Angeles, county of Los Angeles, state of California, and that the following are

the names of each and every person practicing or assisting in the practice of medicine and surgery in my said office, to-wit:

G. M. Freeman, duly licensed by the State Board of Medical Examiners of California;

D. F. Callinan, duly licensed by said Board of Medical Examiners;

H. E. Vreeland, duly licensed by said Board of Medical Examiners;

C. K. Holsman, duly licensed by said Board of Medical Examiners; and affiant further states that

H. W. Baskette, who resides in the city of Chicago, state of Illinois, and who is in the city of Los Angeles temporarily, and who is a duly registered and licensed physician under the laws of the state of Illinois, has upon several occasions been called into consultation

(Signed) G. M. FREEMAN.

Subscribed and sworn to before me this 8th day of September, 1911.

(Seal) (Signed) GEO. S. HUPP,

Notary Public in and for the County of Los Angeles,  
State of California."

Filed Sept. 11, 1911. Board of Medical Examiners  
of the state of California. . . . ., secretary.

### **Testimony of James P. Webster.**

"My name is James P. Webster. I am a newspaper man and connected with the Examiner for eight years and I am now assistant circulation manager. The two volumes that are there on the desk are bound files of the Los Angeles Examiner for the months of July and August, 1912. I took them from the regular files of



(Testimony of James P. Webster.)

the Los Angeles Examiner. The issues of that paper such as are bound in those two volumes were actually issued upon the dates of the papers that are found within the covers of those volumes, copies of the papers included within those two bound volumes were sent to subscribers through the United States mails. The general circulation extended over Southern California, Arizona, New Mexico, Southern Nevada and a portion of Western Texas."

Thereupon was introduced a stipulation signed by the defendants and approved by their counsel which admitted that the Los Angeles Examiner of date July 14th, 1912, contained an advertisement of the defendant Freeman and was placed in said paper by defendant Freeman and the advertisement of said defendant Freeman of that date, to wit, July 14th, 1912, was introduced in evidence under stipulation filed in this cause. Whereupon the following occurred:

"Now, if the court pleases, I desire to offer in evidence, having been properly identified as having gone through the mails, and being a regular bound volume of the circulated copies of the Examiner for August and July, 1912, these papers insofar as the same contain advertisements over the signature of Doctor Freeman, similar to the one introduced in evidence.

The Court: Any objection, gentlemen?

Mr. Stone: That is the one covered by the stipulation?

Mr. Moody: No, that is in. I am offering the others now for the months of July and August.

Mr. Stone: They are objected to as no foundation has been laid.

The Court: When you have shown one advertisement, what is the importance of—

Mr. Moody: To show that that was not the only one; that is the idea, if the court please; that these advertisements were a matter of regular course, and there was not but one isolated advertisement placed in. I have simply taken it during the time alleged in the indictment, the two bound volumes of the Examiner containing similar advertisements.

The Court: The objection will be overruled.

Mr. Stone: Does the record show our objection on the ground no foundation has been laid?

The Court: Well, the objection will be overruled.

Mr. Stone: Exception." *Ex. 3.*

Whereupon there was read to the jury by the assistant United States attorney the Government's Exhibit Number 2, purporting to be an advertisement of said Doctor Freeman published in the Los Angeles Examiner as follows:

"PLAINTIFF'S EXHIBIT NO. "2."

FACTS FOR MEN. By G. M. Freeman, M. D.  
THE LEADING SPECIALIST.

(Picture Insert) I publish my true photograph, correct name, and personally conduct my office. I make this announcement so that you will know you consult a true specialist who sees and treats his patients personally. It is important that you should know the doctor who undertakes to treat you. I possess skill and experience acquired in such a way that no other

can share them, and should not be classed with "medical companies" or "medical institutes." Such companies or institutes have no license to practice medicine in any State. They are usually advertised with a portrait of a doctor whose identity or personality is indefinite as the legitimate specialist of the office. Hired substitutes, ordinary doctors with questionable ability, give consultation, examination and treatment.

A thorough investigation should be made by every ailing man as to the specialist he consults. Duty and destiny to self and those who depend upon you demand the best medical attention. I have the ability and can give you this service. I have always charged a very reasonable fee, so that my services may be obtained by any man who sincerely desires to be cured. I make no misleading statements, false promises or unbusinesslike propositions. I would like to have you for a patient if you will come to me on a strictly professional basis, accepting inducements that I offer, which are my ability, experience, time-saving treatment and cure of diseases of men.

MY ONE TREATMENT CURES. For Weak,  
Diseased Men.

CURE TO STAY CURED.

YOUNG MEN: Have you, through indiscretions and abuse of Nature's laws, broken down your health? Is there a constant drain on your vitality? Your pimpled face, dark-circled eyes, stunted development and guilty, bashful manner proclaim your folly to all the world. and mar your success in business, pleasure or society. Don't despair. I can rid you of all these symptoms,

prepare anew for married life and make you one more a man among men.

**MIDDLE-AGED MEN:** You are reaping the penalty of neglected youthful sins. Dissipation, excesses, blood disease, etc., have ravaged your system and undermined your already weakened vitality. Weaknesses have developed into organic disease. You are prematurely old and not the man you should be. Your manly power is on the decline and will soon be lost. Awaken to your true condition. I can restore you to robust health, with physical, moral and manly powers complete.

**NERVOUS DEBILITY:** My cure for weak men removes all ill effects of former folly, checks every leak or drain of vigor, makes your nerves strong and steady; enriches your blood, invigorates the wasted pelvic organs, and, most important of all, restores the vital powers to the fullest degree. Avoid temporary stimulants. I guarantee a permanent cure.

**VARICOCELE:** I cure this affliction without pain or knife. Soreness, swelling and congestion of the dilated veins vanish quickly. Losses are checked. A healthy circulation of blood is re-established, the atrophied parts are developed, and the old-time feeling of warmth, vigor, and vitality speedily returns. Avoid dangerous operations. I can give you the quickest, safest and surest cure known to medical science.

**SPECIFIC BLOOD POISON:** The New German Remedy, "606" or Salvarsan, is truly scientific, and has done more to relieve sufferers from this disease than any other discovery of this or any other age. Salvarsan, or "606" as it is generally known, is so called as the result of the six hundred and sixth experiment

made by its inventor in order to perfect his formula. It will kill the so-called spirillic germ instantaneously. "606": Carrying out my plan of action all through life, I have been cautious regarding Prof. Ehrlich's discovery until such time as the medical profession on both sides of the Atlantic has become a unit regarding its use and its power to absolutely exterminate the scourge. It is my custom to keep abreast of the times in everything that is for the good of my patients. Accordingly, I have installed the most elaborate "606" laboratory (according to the German method), I believe, not only on the Pacific Coast, but in the whole United States.

In the majority of cases it is only necessary for the patient to remain under my direct personal care for a few hours, after which he can go to his hotel, business or home, with a feeling of relief such as sufferers from this disease never dream. I invite you, dear reader, to come and have a heart-to-heart talk with me. I assure you in advance of satisfactory results. My fee will not be one cent more than you are willing to pay for a complete cure. The bone pains, swelling, sore throat, ulcers and all other distressing symptoms disappear, never to return again. Shortly after you have received this treatment directly into the blood, we will have a Wasserman test made, or I will allow you to have the same made if you desire, in order that you may know absolutely and positively for all time that every vestige of the poison is entirely eliminated from your system.

(Picture Insert)

Giving a Patient SALVARSAN, "606" Professor

Ehrlich's German Remedy for Blood Poison. This is the Intravenous Method, Directly into the Blood, the Only Way it should Be Given.

Extract from letter of Professor Ehrlich:

. . . . Judging from all the reports received by me, it appears that the intravenous injection is to be preferred to all other modes of administration, as far as permanency of effect is concerned. Although I have to admit that this method of administration will prove an obstacle to the introduction of the remedy in general practice, on account of certain technical difficulties, I believe that the interests of the patient demand that only the most efficient form of treatment should be decided on.

. . . . I should feel much obliged to you if you will—as heretofore—assist me in this direction, and in the future employ as much as possible the intravenous mode for the administration of the remedy.

(Signed) P. EHRLICH.

Thomas A. Edison, the great “electrical wizard,” says: “The German Discovery is the most important achievement of the year 1911—and that most of us have the disease and do not know it.”

I guarantee a painless and safe cure, giving the Genuine German Remedy according to the great German Professor's latest instructions.

I CURE VARICOCELE, HYDROCELE, HERNIA, FISTULA, PILES AND STRICTURE IN FIVE DAYS.

No pain or severe operation, no detention from home or occupation.

I ALSO CURE ALL DISEASES OF MEN, in-



cluding WEAKNESS, Lost Vitality, Spermatorrhoea, Prostate and Bladder Trouble, Kidney and Urinary Diseases, recent and old, together with all complications arising therefrom. To the skeptical and discouraged I make this fair offer:

PAY AFTER I CURE YOU.

Any man who wants to be cured has no excuse for suffering another day. I don't care who has failed to cure you, consult me. I will advise you how you can be Cured free of any charge. Don't give up before consulting me.

Don't wait until nature gives way and the disease disorganizes organs and nerves. Now is the time to get new strength. Millions of men are wrecked yearly on the rocks of ignorance.

CONSULTATION AND EXAMINATION FREE.

Expert medical examination free, whether you take treatment or not. Free examination of urine and blood when necessary.

Hours: 9 A. M. to 8 P. M.; Sundays, 10 A. M. to 1 P. M.

HONEST AND TRUE—I follow the lead of no living human being. In my Specialty I stand supreme. Full credit allowed for all fees paid on unfinished or uncured cases undertaken by WEAK or INCOMPETENT SPECIALISTS.

Write me a full description of your symptoms and trouble, if unable to call. All dealings are confidential. Call or write today for Free Consultation.

DR. G. M. FREEMAN, 327½ So. Spring St.,  
Los Angeles, Cal., Opposite Jeffries' Cafe."

That the bound volumes for said July and August, being about sixty in number, each contained an advertisement purporting to be that of the defendant Freeman and similar in many respects to the one above quoted. Thereupon there was introduced in evidence as Government's Exhibit Number 2-A the following stipulation:

"PLAINTIFF'S EXHIBIT NO. 2-A.

*In the District Court of the United States, in and for the Southern District of California, Southern Division.*

No. 903 Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN *et al.*,

Defendants.

STIPULATION.

It is hereby stipulated by and between the United States of America and the defendants, giving the names of Gideon M. Freeman and Charles K. Holsman, that there was mailed two letters, one dated August 11, 1912, and the other December 16, 1912, and likewise a diagnosis sheet dated August 30, 1912, and all being mailed soon after their date to G. M. Freeman, which letters were signed Cicero Hickman, Deming, New Mexico, and which diagnosis sheet purported to be the diagnosis of said Cicero Hickman, and that there was mailed from Dr. G. M. Freeman's office in the city of Los Angeles, letters dated August 15, 1912, August 26, 1912, August 30, 1912, September

1, 1912, September 13, 1912, September 30, 1912, November 1, 1912, and December 17, 1912, which letters were addressed to Cicero Hickman, Deming, New Mexico, and which letters are in the files of this case in the possession of C. E. Webster, postal inspector at Los Angeles, California; and

It is further stipulated that all said letters and diagnosis sheets so mailed at Deming, New Mexico, to G. M. Freeman, Los Angeles, were received through the United States mails at the office of said G. M. Freeman in said city of Los Angeles; and

It is further stipulated that the person writing said letters was guided by the language contained in an advertisement circulated in the Los Angeles Examiner July 14, 1912, over the name of Dr. G. M. Freeman and other advertisements appearing in newspapers published and circulated in said city of Los Angeles; that letters dated August 24, 1912, and November 21, 1912, and diagnosis blank dated October 10, 1912, were mailed at Kingman, Arizona, and transmitted in the United States mails to the addressee thereof, to-wit, G. M. Freeman, Los Angeles, California, and were received at the office of said Dr. G. M. Freeman, which said letters and diagnosis sheet were signed "Claude L. Coon, Box 741, Kingman, Arizona," and that there was transmitted through the United States from the office of said Dr. G. M. Freeman in Los Angeles to said Claude L. Coon at said address, Box 741, Kingman, Arizona, letters dated August 29th, September 12th, September 26th, October 12th, October 28th, and November 25th, 1912, which said letters in this stipu-

lation mentioned as being mailed from the said office of said Dr. G. M. Freeman were all over the name of said G. M. Freeman, M. D., and were in reply or pursuance of the said letters so mailed from said above named post offices under the name of the said Cicero Hickman and the said Claude L. Coon.

That under date of October 10, 1912, there was sent through the United States mails from Kingman, Arizona, a liquid preparation consisting of cold tea, ammonia, salt and paste, with a specific gravity of 10.20, and that with the diagnosis blank of the said purported Cicero Hickman there was likewise mailed a like preparation and that said preparation were, with said other mail matter mentioned, received at the office of said Dr. G. M. Freeman, and the said defendants each for themselves admit the truth of the said statements contained in this stipulation, and will so admit the truth of said facts so stipulated upon the trial of the above entitled case.

It is further stipulated that like correspondence was carried on through the United States mails between a person signing letters under the name of Geo. Mertens at Madera, California, and Hamil Hall at Tooele, Utah, and Robert E. Judson, Yuma, Arizona, and that with letters sent by said respective persons through the United States mails from said respective post offices was enclosed diagnosis blanks, and at the same time each of them sent through said mails a like preparation as that above mentioned in this stipulation, and that all of said letters and said preparations were received at the said office of said Dr. Freeman, and that answers thereto were sent through the United States

mails from the said office of the said Dr. Freeman over the name of said G. M. Freeman, M. D.; and

It is stipulated and agreed that all of the letters and copies of the said diagnosis blanks mentioned in this stipulation may be introduced in evidence upon the trial of said case without other proof than the assurance of the said C. E. Webster to counsel for the defendants that the letters so introduced are the actual letters so sent through the mails, and that upon like assurance of the said C. E. Webster the copies of said letters so transmitted through the said mails and received at the office of said Dr. G. M. Freeman may be read into evidence, subject only, however, to the right of the defendant, and each of them, to object to the admission of such copies; and such original letters, upon the ground only of the incompetency of said original letters so sent from the office of said Dr. G. M. Freeman and the incompetency of the original letters so sent to the said G. M. Freeman.

(Signed) G. M. FREEMAN.

C. K. HOLSMAN.

M. G. GALLAHER,

Asst. U. S. Atty."

Thereupon it was stipulated between counsel for the government and counsel for the defendants that the letters referred to in said stipulation and to be afterwards introduced in evidence as the letters addressed to G. M. Freeman, Los Angeles, California, were each and all of them decoy letters, that is that none of the letters introduced in evidence on the trial of this cause as having been written to the defendants or either of



them were anything more than decoy letters prepared by post office inspectors, and that the replies thereto purported to come from the office of the defendant, G. M. Freeman, at Los Angeles, and the defendants objected to the said letters so written by said post office inspectors when the same were offered, upon the ground that the same were not competent in that there was no proof that the same were written by Dr. G. M. Freeman or that he authorized the same to be written and that said objections were overruled and that the defendants and each of them excepted. 74.

Thereupon there was offered in evidence on behalf of the government the following exhibits:

“PLAINTIFF’S EXHIBIT NO. 3.

Kingman, Ariz.

Dear Doctor:

I have seen your advertisement and as I fear I may need treatment I am asking you to send me the free consultation blank.

Yours truly,

CLAUDE L. COON, Box 741.”

“PLAINTIFF’S EXHIBIT NO. 4.

“All communications strictly confidential.

Consultation and advice free in person or by mail.

Daily office hours: 9 a. m. to 8 p. m. Sundays:  
10 to 1.

G. M. Freeman, M. D.

The Leading Specialist for Men.

327½ South Spring Street.

Largest and best equipped office in the west.



Confidential letters, moneys orders, drafts, etc., will reach me safely addressed to my secretary, A. C. Sims, 327½ S. Spring street, Los Angeles, Cal.

I confine my practice to the special, private, chronic and genito-urinary diseases of men.

Los Angeles, Cal., August 29, 1912.

G. A. Leonard.

Mr. Claude L. Corn,

Box 741, Kingman, Arizona.

My Dear Sir:—

As per your request of recent date, I enclose herewith a Symptom Blank, which I trust you will fill out and return to me. As soon as received, I will make a thorough study of your case and will tell you honestly and frankly what will be best for you to do.

Trusting I may hear from you by return mail, I am  
Very faithfully yours,

FEW (Signed) G. M. FREEMAN, M. D.

(Envelope accompanying above, addressed to: "Mr. Claude L. Corn, Kingman, Arizona, Box 741. Post marked Los Angeles, Cal. Aug. 29 5:30 P. M. 1912.")

### "PLAINTIFF'S EXHIBIT NO. 5.

#### "SELF-EXAMINATION BLANK FOR MEN.

If you wish your correspondence to be private, use address enclosed herewith.

Strictly confidential. I never publish, sell or give the names of my patients to anyone.

#### GENERAL QUESTIONS TO BE ANSWERED IN ALL CASES.

1. State your age 22 Height 5-9 Weight 180
2. Are you married or single? Single.
3. What is your occupation? Cowboy.

4. Are you employed now? Yes.
  5. How many hours daily? About 10.
  6. Does your work require heavy lifting or straining? Riding.
  7. How long have you been employed in your present position? As long as I remember.
  8. What appears to have been the cause of your disease? Have no idea.
  9. How long have you been sick? About 8 Mon.
  10. Can you visit me at my office if I think it necessary? No. When? too far away.
  11. Have you been treated by a Specialist? No. If so, by whom?
- 

THOSE WHO SUFFER FROM THE BAD EFFECTS OF Seminal Weakness, Spermatorrhoea, "Night Losses" or Impotency, Sexual Debility, Loss of Sexual Power, etc.

ARE REQUESTED TO ANSWER THE FOLLOWING.

Have your privates become wasted or small? No.

Have you practiced masturbation or self-abuse? No.

If so, when did you commence it?

Have you quit the habit? If so, how long ago?

About how many times a month did you indulge in self-abuse?

Do you lose semen with your urine? (examine carefully) Know.

Do you have emissions of semen at night, with or without dreams? Yes.

About how many times a month do you have emissions? 1 or 2.

Do you lose semen during the movements of the bowels? Can't tell.

Do you lose semen after passing water? Don't think so.

Are the emissions (if any) attended by erections? Yes.

Does the semen ever pass from you during the day, when you have amorous thoughts, or when in company with women? No.

Are the seminal discharges (during sexual intercourse) too quick? No just right.

Have you ever had gonorrhoea or clap? No.

Have you ever had syphilis? No.

Is there any burning in the water passage after urinating? No.

Is there any stricture (obstruction in the water passage? Don't know.

What is the state of your bowels? Pretty regular.

Do you have pains in the region of your kidneys? No.

Is your back weak? No.

Do you seem to have a weakness in the legs? No.

Is your urine scanty and discharged with difficulty? No.

Is it high colored and offensive? No.

When cold, is it thick and milky looking? No.

Is there a deposit (like brick dust) in the bottom of the chamber? No.

Is there any varicocele? (in this disease the testicles will feel like a bunch of cords) No.

Are you so weak or debilitated as to be unfit for business? No.

Are you wakeful and restless at night? No.

Are you troubled with rushes of blood to the head, with dizziness? No.

Have you a ringing in your ears? No.

Have you a dimness of vision, with spots appearing before the eyes? No.

Is your memory bad? No.

Are your eyes in any way affected? No.

Is your stomach weak and digestion bad? No.

Is there a loss of sexual desire? No. Or power? No.

Are the erections weak? No.

Have you been addicted to drinking alcoholic liquors or using tobacco? Not enough to hurt.

Is your mind occupied with thoughts or your disease? A little.

Are you subject to despondency or gloomy feelings? No.

Have you ever thought of self-destruction? No.

Did any doctor ever treat you for Prostatorrhoea, complication Seminal Weakness? No.

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QUESTIONS TO BE ANSWERED IN CASE OF CLAP, OR  
ACUTE GONORRHOEA.

How long since you had impure connection?

Is there burning, smarting or scalding sensation in the water passages? . . . . While urinating or just after?

Are the parts swollen, inflamed, tender or red?

Do you have a discharge from the water passage? If so state color . . quantity . . . and time of appearance, etc. . . . .

Do you have chordee—painful erections?

Is either testicle swollen or painful?

Have you had Gonorrhoea before...if so, was it hard to cure? N. B. State all you can about it.....

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QUESTIONS TO BE ANSWERED IN CASES OF GLEET, OR  
CHRONIC GONORRHOEA AND STRICTURE.

How long has it been since you first had Gonorrhoea?.....and why was it not cured?

Have you been treated for gleet?

And how long did you continue it?

Do you have a discharge?

Is it copious, or only a few drops?

What is its color and nature?

Is there any burning or uneasiness in making water or just after?

Is the stream of water natural? or is it diminished in size?...does it divide or twist as it comes out?

When done urinating, is there a dribbling or leaking for a time?

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QUESTIONS TO BE ANSWERED IN CASES OF SYPHILIS,  
OR BLOOD POISON.

How long since you were exposed?

Is there an itching or burning sensation on the privates?

Are there any red spots, pimples, blisters or little sores on the privates?

Are there any sores in mouth or throat?

Any eruptions or sores on body?

Is the hair falling out?

Have you pains in your bones?

Have you ever taken mercury?

Can you get the foreskin backwards and forwards over the penis?

Is there an inflammation, swelling or soreness of the testicles?

Is there swelling or lumps in the groins? Are they tender?

---

With a lead pencil carefully answer all of the above questions touching on your disease. Fill out and mail the blank, and send me by express, charges prepaid, a small bottle (2-oz.) of your urine (the first you pass in the morning), for analysis, then I can treat you as well as if you were here, and nothing will be left undone, on my part, to restore you to full vigor and health.

Write on the other side any particulars you think I should know.

Sign your name and address here:

Dated October 10, 1912.

Name Claude L. Coon.

P. O. Address, Kingman, B. 741.

State Ariz.

Town in which express office is located. . Kingman.

In what paper did you see my notice?

Los Angeles Examiner.

OVER."

(The following appears on the back: "Dear Doctor I am also sending you a sample of my urin. I would have sent it sooner but couldn't get the right thing to send it in. Please let me know what is the matter with me. I am worried about my dreaming of and don't know what to make of it.

(Signed) CLAUDE L. COON.' "



Thereupon there was offered in evidence several other letters addressed to said defendant G. M. Freeman and being decoy letters as aforesaid and purported replies thereto and symptom blanks accompanying said replies, each and all of the same character and tenor as the aforesaid exhibit; and there was also introduced in evidence under said stipulation two bottles containing a mixture of tea, ammonia, library paste and salt, and no other or further evidence as to who sent out said letters and symptom blanks from Dr. Freeman's office was offered, the letters so sent out from his said office porting to reply to said decoy letters being signed by rubber stamp. It was also stipulated that the symptom blanks referred to show the condition of a normal man.

### **Testimony of Doctor Frank L. Cunningham.**

"My name is Frank L. Cunningham. I am an osteopathic physician. Graduated here in Los Angeles in 1906. I have treated a few cases of gonorrhoea and am fairly familiar with them. I have not treated syphilis." Thereupon the following proceedings took place while the said witness was on the stand, after objection had theretofore been made to a similar question:

"Q. By Mr. Palmer: I will ask you doctor, whether or not, in your opinion, a physician can properly and successfully diagnose diseases of men, such as gonorrhoea and spermatorrhoea, by mail, without having seen the patient?

Mr. Stone: The same objection.

Mr. Hupp: To that we object upon the ground that

(Testimony of Doctor Frank L. Cunningham.)

the proper foundation has not been laid, and the witness has not qualified as an expert; that by his own testimony he belongs to a school that is not permitted under the law to administer medicines.

Q. By the Court: You say you have treated gonorrhoea?

A. I have, yes, sir.

Q. Have you treated spermatorrhoea?

A. I never have treated spermatorrhoea.

Q. Have you ever diagnosed such cases?

A. Yes, sir.

Q. You are familiar with the diagnosis of gonorrhoea?

A. Yes, sir.

The Court: I will overrule the objection.

Mr. Stone: Exception. Ex. 5.

Mr. Hupp: Exception.

The Court: You may answer the question.

A. I don't think it can be successfully treated by mail, or by correspondence.

The Court: Not treated,—diagnosed.

A. Diagnosed,—no, sir, it cannot.

Mr. Palmer: Q. Are you a practicing physician, a medical physician also?

A. No, sir, I am not."

"I will say as an osteopathic physician that a patient could not be successfully treated by sending medicines or other correspondence through the mail.

I have perhaps treated twenty cases of gonorrhoea in my practice of ten years. One of the best known treatments is the water treatment, by which I mean

(Testimony of Doctor Frank L. Cunningham.)

putting the patient to bed and flushing the system by an absolute treatment of water, free from any diet for a few days, by simply putting the patient to bed and giving him a large amount of water to drink. One cannot tell whether there is a case of gonorrhea unless he has a report from the laboratory, that is it could not be diagnosed properly. I have also used bismuthol by injection a couple of times a day. No one can positively say that gonorrhea is curable, at least it is temporarily checked. I treated some of these patients as long as eight or nine years ago. I don't know of any of them coming back. When I stated that a patient could not be successfully treated by mail I meant that if the doctor had a correct diagnosis of his case, knew what was the matter with him it would then be a question, a doubtful one, in fact the opinions of physicians on the matters I have testified to differ very greatly among the profession. I am not an M. D. I am a graduate of an osteopathic school. I put the letters "D. O." after my name."

### **Testimony of Dr. Charles H. Whitman.**

"My name is Charles H. Whitman. I am a physician and surgeon. I am medical director of the public charities of the county of Los Angeles, principally at the county hospital. I have charge of all the professional services there as also of all the other county institutions. In other words I am in charge of the medical departments of the county hospital and have been for about eight years and have been practicing medicine for over thirty years. I am familiar with the

(Testimony of Dr. Charles H. Whitman.)

diagnosis of syphilis and gonorrhea and spermatorrhea and gleet and the general diseases of the genito-urinary class. Some people could not be expected to diagnose these diseases correctly on a symptom blank furnished him by a professional man. (Here the witness examines United States exhibit, being one of the symptom blanks referred to.)

Thereupon the following proceedings occurred.

“Q. Now, will you read the questions there, doctor, and tell the jury whether or not a patient can answer those questions and correctly tell whether or not he had clap or acute gonorrhea?

Mr. Stone: That is objected to as incompetent, irrelevant and immaterial. It is shown by the doctor's testimony, Your Honor, on direct examination, that some patients could tell and some could not. Now there is no way to tell, unless he had the patient before him and knew the character of the man.

Mr. Moody: I think Mr. Stone is in error.

The Court: That must depend upon his opinion about it, Mr. Stone. I will overrule your objection.

Mr. Stone: Exception.” Ex. 6.

While in that paragraph (referring to the symptom blank) many of those things, of course, the patient would be able to tell but he would not be able to tell whether he had clap or acute gonorrhea and on reading the second list as to gleet or chronic gonorrhea or stricture or of the third list as to syphilis or blood poison I will answer your question as to the patient's ability to decide. It is not possible to diagnose gonorrhea without the use of a microscope. The positive

(Testimony of Dr. Charles H. Whitman.)

diagnosis of syphilis is the blood test called the Wasserman test. The ordinary layman by self-examination cannot tell whether or not he has gonorrhea or syphilis; that is the ordinary layman who is not familiar with the microscope. The only way to distinguish these diseases is the microscope for the gonorrhea and the Wasserman test for the syphilis,—the two diseases are different.

Thereupon the following occurred:

“Q. Now doctor, would you say from your experience in treating patients that it would be possible to successfully treat patients through the mails upon questions answered by them, without personal contact with the patient in the diseases, the so-called genito-urinary diseases?

Mr. Stone: That is objected to as irrelevant, incompetent and immaterial, and not a proper question for expert testimony.

The Court: The objection will be overruled.

Mr. Stone: Exception.” Ex. 7.

A doctor who reads the patient's description of what he had could not tell what the patient had without a personal examination. I have had considerable experience in over thirty years in treating syphilis. I remember the incident in which a number of patients in the county hospital were treated for syphilis, six or seven at one time, and it was discovered that there was an invisible fracture in one of the small containers, the ampoules, and that it had decomposed, and that the medicine itself had decomposed and was poisonous, and that was the cause of the unfortunate occurrence by

(Testimony of Dr. Charles H. Whitman.)

which seven or eight of the patients died. They had spinal syphilis. At that time I was superintendent of the county hospital where these treatments were given and the men died. The treatment was administered by the pathologist, that is, under his direction, by assistants at the county hospital. It was a well recognized procedure, that has been used in this city and nearly all over the world. The nature of the remedies used is left to the attending staff which I appointed. They did not die from the manner of the treatment. I explained to you that the medicine had become deteriorated by the entrance of oxygen mixed with nitrogen and it had decomposed the remedy. To put it in simple language so that we can all understand it, they died as a result of the treatment. I do not know that all the better schools of physicians differ as to the manner and method of treating syphilis. I can't answer for everybody. The use of "606" is not entirely recognized as the best remedy known to the medical profession for the treatment of these diseases. I can say frankly it is not a cure. Some doctors recognize "606" as one of the best known remedies for that disease and some do not. I would not consider the water cure a specific remedy for gonorrhea, that is the use of water by which the patient can be put to bed and drink all the cold water that he can drink. I do not know of any remedy known to mankind that will absolutely cure a case of gonorrhea in a week's time and I do not believe there is such a remedy. I believe there is an absolute cure for gonorrhea. I think six weeks would be the shortest time possible."



**Testimony of C. E. Webster.**

“My name is C. E. Webster. I am postoffice inspector located in Los Angeles and have been for five years at Los Angeles and was one of the inspectors who examined and worked this case up. Prior to the return of the indictment herein I had a conversation with the defendant Freeman at the corner of Third and Broadway about the first part of 1914. There was present at the time, Doctor Freeman, Inspector Ranger and myself. I showed Doctor Freeman one or two of the letters that have been introduced in evidence here and asked him particularly regarding the signature that appeared thereon (which is conceded in this case to be a rubber stamp fac-simile of his signature). The letters were either addressed to Cicero Hickman or Claude L. Coon, and they were the letters that bore the rubber stamp, “G. M. Freeman, M. D.” We asked Doctor Freeman if that was his fac-simile and he said it was and he was asked how he happened to be connected with the business that was represented by those letters and he said he was employed by Dr. Holsman, Giles and Joslyn to conduct the business, and that he was working on a salary, and received a percentage for allowing his name to be used in carrying on the business, and that he furnished a rubber stamp facsimile of his signature to Mr. Sims to be used in the correspondence, and that he received a percentage in addition to his regular salary for the business of the office. He said Mr. Sims was not a physician and was brought there to take care of the mail order business and that to save his, Dr. Freeman's time, in personally signing

(Testimony of C. E. Webster.)

the letters, his rubber stamp signature was furnished by him. He said that he received a percentage of all the business that came to the office in addition to his regular salary. Those letters came into my possession in February, 1913. I did not know about those letters in September or October, 1912. Those decoy letters were written by Inspector Woltz, Inspector Leonard and Inspector Honvery, operating from Washington, D. C. Dr. Freeman answered all questions fully and frankly except that he said he could not give all the details on account of the magnitude of the business. He offered to turn over to me all of his correspondence so I could look through it in regard to the business he is now conducting, but not of the business conducted at the time these letters were sent. I did not go to 327½ South Spring street and I do not know whether they were running there in 1913 or not. He told me that he had given instructions that no cases should be taken by mail and indicated that that was a short time before he left the office at 327½ S. Spring street. I would say that it was between January first and April 14th, 1914, that I went to Doctor Freeman's office. I did not make any inquiry about the correspondence of the office between the date of the decoy letters and the time I was there. The particular thing I had in mind was the decoy letters. I saw *bona fide* letters written from that office, that is, letters that were not decoy letters and I have them in my files. I have one and possibly more. I got that one from the party to whom it was addressed. Dr. Freeman told me at the time I showed him the letters with the rubber stamp that he

(Testimony of C. E. Webster.)

never saw these symptom blanks before nor the letters that purport to have been received or sent out from his office. He said that all mail order business was handled by Mr. Sims and that he knew nothing about these particular decoy letters and had nothing whatever to do with them. I knew that some fake urine had been sent in to try to catch him, but I did not ask him about this. I did not ask him anything about the Wasserman test or whether they had used it or not."

Whereupon the following proceedings occurred:

"Q. How many people have you, in your investigation which you have testified about, talked to personally or written to in regard to the treatment received from that office?

Mr. Moody: We object to that as incompetent, irrelevant and immaterial and not cross-examination.

The Court: I don't see the materiality of that.

Mr. Stone: Well, they are charged with defrauding various people, and they introduced the Examiner to show the extent of its circulation, and the indictment charges they were intending to defraud everybody anywhere and everybody they could. Here is a post office inspector who went there to make this investigation, Your Honor, and the question is bearing on what he found there, and so on, and what he found in his investigation as to the extent of anybody that claimed to be defrauded.

The Court: Well, I will sustain the objection. I don't think the conduct of this witness is material to this case.

Mr. Stone: Exception. That is all, Your Honor."  
Ex. 8.

**Testimony of C. S. Ranger.**

My name is C. S. Ranger. I am postoffice inspector. I am acquainted with the defendant, G. M. Freeman. I had a conversation with him relative to this case I think early in 1914 in the presence of Inspector Webster and at that time Dr. Freeman's office was at 3rd and Broadway. We asked him about his connection with the office at 327½ South Spring which was run under his name and he *he* stated he was hired to run it by Dr. Holsman, Giles and Joslyn, and that he received a salary and a commission. We submitted to him some letters we had signed with a rubber stamp signature of his name and asked him if it was what it purported to be, his signature, and he said it was. He further stated that this rubber stamp was authorized by him for the use of one Sims, who conducted the correspondence. He said he could not recall at that time the decoy letters as the correspondence was handled by Mr. Sims. I recall that I showed him the decoy letters and he did not appear to know anything about the letters—he did not appear to be able to identify that particular correspondence. He said he was unable to recall the particular letter we showed him or any of the decoy letters we showed him. We inquired mostly in regard to the Coon letters. We asked what diseases were treated by correspondence and what not, and he replied that hydrocele, varicocele and circumcision were not treated by correspondence. We made no inquiry as to whether or not he had any correspondence between the date of the decoy letters and the time we were there. We simply showed him

(Testimony of C. S. Ranger.)

the decoy letters and the replies that bore his rubber stamp signature. I knew at the time that the letters to which the rubber stamp was signed were replies to decoy letters. We only showed him letters which bore his rubber stamp signature. I saw no *bona fide* letters that were sent to the office. I never at any time saw Dr. Holsman at the office or about the office. He told me that Mr. Sims handled the mail business. He told me that he was instructed not to take cases by mail; that Mr. Sims had been instructed not to take cases by mail but whether it was subsequent or prior to these letters I do not remember. He did not appear to be familiar with the correspondence I showed him. We had about forty minutes' conversation with him and this is the substance of all he said.

### Testimony of Dr. Wirt B. Dakin.

My name is Wirt B. Dakin. I am a physician and surgeon engaged in the private practice in Los Angeles and am instructor of genito-urinary surgery at the University of Southern California, and have been attending the county hospital as a surgeon in genito-urinary diseases for two and a half years and am familiar with the diagnosis of genito-urinary diseases. I would say that a layman could not successfully diagnose genito-urinary diseases that he had and could not tell whether it was syphilis or not, neither could he as to gonorrhea absolutely, nor could he as to gleet absolutely, the way to tell is by the microscope and culture growths; then there are blood tests but more attention is placed on the microscope. In the case of syphilis it

(Testimony of Dr. Wirt B. Dakin.)

requires a personal examination and Wasserman test, which is the recognized test.

Thereupon the following questions were asked and answers given thereto.

“Q. Now, basing your answer upon your experience in the treatment of these diseases, syphilis and gonorrhea, would you say that these diseases could or could not be successfully treated through the mails upon questions asked by yourself and answered by the patients through the mails?

Mr. Stone: That is objected to as irrelevant, incompetent and immaterial, and not a proper subject of expert testimony.

The Court: The objection will be overruled.

Mr. Stone: Exception.” Ex. 9.

I do not absolutely know of any genito-urinary disease that can be successfully treated by correspondence without personal contact with the patient. You might make a hit and miss game of it, you might hit it right—you are taking a chance always. The medical science is not always an absolute certainty. I belong to the allopathic school. There is an absolute cure for gonorrhea and there is also in the early stages of syphilis. Syphilis in its first stages probably can be cured. The best recognized treatment for syphilis is mercury and iodine treatment plus the “606” or Salvarsan treatment. I am not certain and no one else is certain that they have absolutely cured syphilis and this would apply to the fifteen hundred patients I have treated.

Whereupon at the close of this evidence the government rested its case.



**EVIDENCE OF THE DEFENDANTS.****Testimony of Gideon M. Freeman.**

My name is Gideon M. Freeman. I am a physician and surgeon duly licensed to practice in the state of California. I graduated in 1903 from the medical department of the Leland Stanford University and since that time I have specialized practically all the time in genito-urinary conditions and diseases. I know the defendants Drs. Holsman, Giles and Joslyn and Mr. Sims. I was formerly connected with the office at 327½ South Spring street in 1912 and saw all the cases that called at the office. I worked there on a salary for Drs. Joslyn, Holsman and Giles. I was first employed by Dr. Joslyn at Third and Spring. When I first came to Los Angeles Dr. Joslyn sent me from San Francisco to catalog a museum at Third and Spring streets, where the Washington Building now stands, after which he offered me a position as treatment man in the office and finally I took charge of the office. He hired a man to attend to the mail and there was no letters or cases supposed to be taken by mail and I had a definite understanding with Dr. Joslyn that no cases would be taken by mail without a personal visit to the office and Dr. Holsman told me to continue the same policy that had been in force. I did not do or attend to any of the correspondence. In June, 1912, the office moved to 327½ South Spring street and each day we would treat in the neighborhood of between forty and sixty patients a day in the office. There were other physicians in the office. The office was equipped with an operating room with all the equipment that a man

(Testimony of Gideon M. Freeman.)

could use in a regular operating room, in brief the sterilizers and tables and all the instruments and treatment room, one that had all the scissors and knives and so forth, for the minor work; another room where we gave consultations. Then there was an electrical apparatus in booths, and there were armatures in two or three more booths, a static machines, an X-ray, and different electric currents for the different machines.

Thereupon the following questions were asked and answers made thereto:

“Q. Compared with the average office, how was that office equipped, for the treatment of those diseases?

Mr. Moody: I object to that as incompetent, irrelevant and immaterial and calling for the conclusion of the witness, and asking for a comparison with other offices.

The Court: Read the question.

(Question read.)

Mr. Moody: He stated what was in there. We object to the comparison.

The Court: Well, objection sustained.”

Mr. Stone: To which the defendants, and each of them, except. Ex. 10.

I have treated between thirty-five and forty-five hundred cases of syphilis. The treatment I used for that disease was “606” and “914” with the mercury and iodine and that is the only treatment we know of. I would say that eighty or eighty-five per cent of our business was gonorrhea and syphilis and fifty per cent of that was gonorrhea. The first time I saw these

(Testimony of Gideon M. Freeman.)

symptom blanks referred to was after the office was moved to 327½ South Spring street in June, 1912. I had never seen them before. Those were never used in the business after moving to this number. I have never sent out to any patient or prospective patient any of the symptom blanks and no one in the office did so in my knowledge. Mr. Sims was manager of the office and took care of the cash and of the books and opened the mail and attended to the drug store. To begin with instructions were given by Dr. Joslyn that no cases should be taken by mail and that order was never changed. I do not know of any of these cases or these letters in evidence, I mean the decoy letters. The postman left the mail on Mr. Sims' counter, next to his desk, and he always opened the mail and if there was a new inquiry the patient was supposed to be asked to call at the office and if the patient was not getting along as he should be he would refer it to the doctor who treated the patient and ask his advice as to a change in the medicine and the doctor would give orders accordingly. I had nothing to do with any letters of any kind. I was simply there to treat the patients. Mr. Sims took charge of the money. I never saw on the books the name of any patient that was not a patient being treated at the office. I had a microscope in my room and all the stains that are used with it. And a urinary test both in my room and in the drug store, two separate outfits. I left the employ of Drs. Holsman, Giles and Joslyn the first week in April, 1913, and opened an office at Third and Broadway for the treatment of the diseases of men and followed up

(Testimony of Gideon M. Freeman.)

exactly the same plan as to the mail and conduct of the mail matters. I do not know where the cash book is. I looked at it every day to see how much—how things were running. I never at any time knew anything about the decoy letters until the postoffice inspectors called on me. I never knew anything about the purported replies that had been sent out and never saw them and when the postoffice inspectors called on me they did not ask me anything about anything except the decoy letters and the purported replies thereto. I received the same instructions from Dr. Holsman about taking cases by mail as I had received from Dr. Joslyn, towit, that no cases should be taken by mail. Dr. Holsman was in the office in July of 1912, about three weeks, and between July & Dec., 1912, but I don't know when. I preserved and have here the correspondence for the year 1913.

Whereupon the following questions were asked and answers made thereto:

“Q. Did you preserve, and have you your correspondence for the year 1913?

A. I have, yes.

Mr. Stone: Do you want to examine this?

Mr. Moody: Is this correspondence of the office at Third and Broadway?

Mr. Stone: Yes.

Mr. Moody: No, I don't want to examine it. It has nothing to do with this case.

Mr. Stone: Q. I show you here, doctor, a number of letters and replies in May, 1913, relating to the business of the office. Will you kindly examine that ex-

(Testimony of Gideon M. Freeman.)

hibit for the month of May, 1913, and state whether or not those are the original letters received at the office, and copies of replies given by you in regard to any business of the office or the treatment of any patient?

Mr. Moody: Is this the office at Third and Broadway?

Mr. Stone: That is for the witness to say, where it is. It is immaterial where it was. The conspiracy is alleged to be January 1st, 1912, and from that time on, continuous, Your Honor.

Mr. Moody: During the times mentioned in the indictment.

The Court: Well, this question, Mr. Moody, is preliminary. Haven't you examined those documents?

A. Yes, sir, I know them.

The Court: Well, you can answer the question then.

A. Yes, sir, these are parts of my records.

Q. By Mr. Stone: That is for that month; is that correct?

A. Yes, sir.

Mr. Stone: We offer those in evidence, if Your Honor please.

Mr. Moody: To that we object, on the ground they are incompetent, irrelevant and immaterial, and do not go to prove or disprove any issue in this case, inasmuch as these are from the office of Dr. Freeman, which he has testified he was running alone, separate and apart from the other defendants, separate and apart from the place at which the indictment alleges the conspiracy was formed and carried on, and therefore they are in-

competent, irrelevant and immaterial.

Mr. Stone: I want to be heard further on that.

The Court: I will hear from you, Mr. Stone.

Mr. Stone: Now, if Your Honor please, our position is this: That in this case, up to this time, here are men associated in this particular business. They have been charged here with conspiracy, or a scheme or conspiracy to violate a certain provision of the federal code, that is, section 215. That is, a device or scheme to defraud by use of the mails. That has been emphasized by the counsel for the government time and time again,—by the use of the mails. Now, the only thing that appears in evidence up to this time are some decoy letters, that were admittedly false on their face, admittedly did not state the true facts, that were sent to this office, and to which certain replies had been made. These decoy letters are dated along about September and October, 1912. Now, it is attempted by these decoy letters to show that these men were engaged in a criminal conspiracy in the use of the United States mails. Now, there is no more definite and certain way to tell whether or not a man is engaged in a criminal conspiracy in the use of the mails than by the production of the correspondence which he actually had, with his *bona fide* patients, or people he was dealing with. In other words, can it be said that the defendant are to be put upon this trial, and confronted simply with decoy letters, which are themselves admittedly false, and answers which were sent out under circumstances of this kind, and then they are precluded from showing the entire correspondence over the time, the period in which they say the criminal conspiracy



existed. Any business man, in any business in this city, if he was charged with a conspiracy in the use of the mails in his merchandise, or anything else, there is nothing that would show his intention or the conduct of his business more certainly and generally than his actual correspondence with people with whom he was dealing. It is our contention, and I never heard it disputed in this court before, that in a conspiracy charge for the use of the mails, that the letters actually written and sent pertaining to the use of the mails over the times they say the conspiracy existed, should be admitted in evidence. I never have seen the objection made before, and I have prosecuted numbers of cases in this court, if Your Honor please, and I have never raised the objection, or seen it raised, or heard it questioned that it could not be done, as bearing on the man's intent in the use of the mails.

The Court: Well, Mr. Stone, what difference does it make how many honest letters he wrote, if he wrote one dishonest letter? I don't see how it makes any difference.

Mr. Stone: It makes this difference, if Your Honor please: The inquiry here is whether or not they were engaged in a criminal conspiracy. Can it be stated that they can pick out a few decoy letters that were sent to them, and to which answers have been made, without their knowledge, as the evidence appears here, and then all the letters pertaining to their business, showing they were doing an honest business, can be cut out? That is not the law, Your Honor.

The Court: I don't understand your claim these are

the letters of the people alleged in the conspiracy,—the letters of this one witness.

Mr. Stone: No, they have introduced the replies. Now, we offer to show the letters that were actually sent from their office, relating to their business.

The Court: To these particular correspondents?

Mr. Stone: Not to these particular correspondents, Your Honor. It is a very important question in this case, and I will state to Your Honor I am satisfied of my position about it. I may be wrong but it is either a grave error to refuse the admission of these letters, or it is not error at all.

The Court: As I understand you, Mr. Stone, these letters were written by this witness to patients of his?

Mr. Stone: I will correct Your Honor in this, these letters are letters that he received from different people with whom he was dealing, and copies of his replies.

The Court: When he was in the office.

Mr. Stone: Yes, sir.

The Court: Under the employment of Holsman?

Mr. Stone: Well, while he was in the office. His name is signed to them.

The Court: I say, while he was in the employment of Holsman?

Mr. Stone: Yes, sir, while he was in the office anyway. It does not make any difference whose employment he was in.

The Court: Well, I think it does make a difference in any event.

Mr. Stone: Your Honor, this indictment charges that at the times these letters are dated—we have over 150 letters, which cover the entire correspondence of

this office from the time these decoy letters were sent up to the time these postoffice inspectors came to investigate. Now, we are not offering letters after the post office inspectors investigated there, because they would say those letters were made for the purpose of avoiding prosecution. But we are offering letters which existed and show the business of the office between the time the decoy letters were sent there and the time they were questioned by government officials, at a time when there was no reason for fabricating matter, but was their correspondence. The indictment charges they conspired to defraud various people by the use of the mails, and we want to show by every man that had correspondence with him that he never intended to defraud him; that the letters we received from those people, and every letter sent to them in every instance stated they must come to the office for examination, in contravention of the things alleged in the indictment.

The Court: It seems to me, Mr. Stone, they are self-serving declarations and not admissible.

Mr. Stone: Exception. We want to make the offer for the purpose of the record. Ex. 11.

The Court: Yes, have them marked for identification.

Mr. Stone: Yes. We offer first, if Your Honor please, we might offer them as one exhibit, a series of letters and copies received from patients, people with whom these defendants were dealing in May, 1913, as Defendant's Exhibit No. 1, there being about 30 or 40 letters.

The Court: Are they fastened together?

Mr. Stone: I think so, Your Honor.

The Court: Mark that Exhibit 1.

Mr. Stone: This is No. 1, being the entire correspondence of the office for that month, relating to the treatment of any disease by the use of the mails.

Mr. Moody: While Your Honor has sustained the objection, and while counsel has entered an exception, in order that the record may be clear, I will interpose an objection upon another ground, that it is privileged correspondence, and the privilege is not waived by the addressee or the writer of the letters.

The Court: That objection is well taken, too, I should think.

Mr. Stone: I don't think so, under the facts in this case.

The Court: Well, proceed, Mr. Stone.

Mr. Stone: We made no objection to the privilege of the post officer inspectors."

(The letters and copies of letters so offered, in evidence, are in the words and figures following, to-wit:)

Goldfield, April 27, 1913.

(Sent Varix letter Apr 30/13.)

Mr. H. J. Tillotson, M. D.

I see your ad. in Los Angeles examiner for to cure varicoccele so I though I would write to you for A book about it so I can explain my case to you. I have a diseases in my penes about 4 years and I tryed A lot of doctors but they failed to cure me.

Address Wm. Grout, Goldfield, Nevada."

"Goldfield May 15, 1913.

Mr. D. R. G. M. Freeman,

I see where you have taken up D. R. H. J. Tillotson

place of business so I would like to now what you can do for me. I explained my case as good as I new how so let me now if you can cure me and how much is you price.

Address Wm. Grout, Goldfield, Nevada."

"May 16th, 1913. NEW

Mr. Wm. Grout,  
Goldfield, Nev.

My dear Sir:—

I have your favor of the 15th inst and have noted carefully your consultation letter and the description of your trouble which is Gleet; if you can come in to my office for a few visits I assure you that I can fix you up in a number one shape in a very short time, but I have no method of "mail order" treatment and your presence here for a short time under my personal care and attention will be absolutely necessary.

As I have none of the little booklets as used by Dr. Tillotson I am returning to you herewith the 12c in postage you sent me. Trusting that you will be able to come in to my office for treatment soon and assuring you of my best care and attention, I am,

Very respectfully yours,

GME/CBT

No. 1 Follow up—6/13/13."

July 15, 1913.

Mr. William Grout,  
Goldfield, Nevada.

Dear Sir:

I have had no reply to my two letters to you and am wondering how you have been getting along.

As I wrote in a former letter, it would be much bet-

ter if you could come in here and see me, if you could only stay a few days. I would like at least to have some word from you as to your intentions, so that I may know what to do with my record of your case.

With my best wishes,

Very respectfully yours,

GMF/CBT

"Goldfield, July 23, 1913.

Mr. G. M. Freeman, M. D.

In reply to your letter I received A few days ago I will now say that I cant go to Los Angeles under any conditions respectfully yours,

WM GROUT, Goldfield, Nev."

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"NEW Coalinga, Cal. 6-8-13.

Dr. Freeman: Sir:

You said you could give me treatment for \$7 a month and it would take about 3 months how about sending me three month treatment and I send you \$7, Seven dolars and if you give a satisfactory cure in 3 months i can send you some more and if your treetment does no good i will just Be stung for seven dolars and you will Be seven dolars to the good so awaiting your reply i am,

A. S. COLE,  
Coalinga, Cal."

c/o Traders Oil Co.

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"May 9th, 1913.

Mr. A. S. Cole,

c/o Traders Oil Co., Coalinga, Calif.

My dear Sir:



I have your favor of the 8th inst. regarding a fee I made you for treatment. Your arrangement would work out all right Mr. Cole if I had any "mail order" method of treatments, but it will be necessary for you to come in to my office for a few days at least so that I can have you under my personal attention and then we might give you treatments enough to last a few weeks if it is not convenient for you to stay here; I assure you that there is no doubt of my ability to bring about satisfactory results in your case, and I shall be glad to extend to you my best personal and professional services.

You will please note my change of address; I have a well appointed suite of rooms in the Rindge Bldg., cor. 3rd and Broadway, equiped with all the modern and scientific appliances for the treatment of the diseases of my specialty, and shall be glad to see you at an early date

With my best wishes, I am

very respectfully yours,"

GMF/CBT

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"Monrovia, Cal. 5-7-13.

Dr. G. M. Freeman,

I would be please to have you send me particulars regarding the animal serum treatment you advertise in Examiner. I have had a long sickness and feel I need such a treatment. Please advise me as to number of

treatments and cost of same and if within my means,  
I will call and see you when in Los Angeles.

Respectfully yours,

A. B. SPENCER,

Monrovia, Cal. Gen. Del.

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“NEW

May 9th, 1913.

Mr. A. B. Spencer,

Gen. Del., Monrovia, Cal.

My Dear Sir:—

I have your valued favor of the 7th inst. and am much interested in your case; however, before any Physician can prescribe for or give an honest opinion of any case he must have a thorough and complete diagnosis and the only way to obtain this is by a personal and private examination here in my office where I have every modern and scientific appliance and can give you my personal attention and the result of many years of successful experience in the diseases of my sepecialty.

You do not live very far from this city, therefore I would advise you to run in and see me at your earliest convenience, and I will grant you a FREE EXAMINATION AND CONSULTATION, and then you will know just how long it will take to effect a cure and what the cost will be. My fee will be no greater than you are able and willing to pay, and I will urge you to lose no time, as disease is always progressing and delay will only mean a longer and more difficult treatment.

Hoping to see you at an early date, and with my best wishes, I am

very respectfully yours,"

GMF/CBT

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"Redlands, Cal. May 8th, 1913.

Mr. H. J. Tillotson, L. A. Cal.

Dear Sir:

I have often seen your ad in the Examiner and I thought I would write you in regard to your Rupture cure. That is to get you, if you would kindly send me free your Book on the Rupture cure only—as I believe you propose to send free. I am Ruptured on the left side—in the Groin and I have tried so many different so-called cures but all of them have proved a failure and I just thought I would like to see your proposed cure and read it through.

So in conclusion if you feel like sending it to me on above terms one—I will be ever so much obliged to you for so doing. There is no truss I don't think any good much. Yours truly,

D. H. BRONAUGH."

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"May 9th, 1913.

Mr. D. H. Bronaugh,  
Redlands, Cal.

My dear Sir:

I have your favor of recent date and in reply would say that it would be absolutely necessary for you to come to my office for consultation and examination before I can say what I would be able to do for your

case; I have absolutely no way to treat hernia or rupture by mail. I will grant you a free examination and consultation and you will be in no way obligated to take my treatment unless you are satisfied that I can help you and we can agree on terms.

I have had a great many years of experience in this line and have found but very few cases out of hundreds I have treated that were not amenable to my treatment, even when operations have failed I have cured to stay cured.

You do not live far away from this city and if you are interested in a cure of your rupture I think it would be time well spent to come in and talk it over with me.

With my best wishes, I am,

Very respectfully yours,"

HJT/CBT

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"Redlands, Cal., May 12th, 1913.

Mr. H. J. Tillotson, Los Angeles.

Dear Sir: Yours first received and contents noted. I am much obliged for your favor. Will say I cannot well come to see you at L. A. for maybe over a month yet as I cannot well go away just now, but will try and come as soon as I well can. I am sorry I didn't get your book as I wrote you for. Now in conclusion I hope you will please excuse this scrap of paper, as I had no paper with me at time of receiving yours.

Yours truly,

D. H. BRONAUGHA."

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"NEW

May 11th, 1913.

Mr. D. H. Bronaugh,  
Redlands, Cal.

My dear Sir:

I have your favor of recent date and regret that you find it impossible to come in and see me soon.

I shall be glad to see you anytime you find it convenient to come in.

very respectfully yours,"

HJT/CBT

"NEW

Seligman, Ariz. 5/11/13.

Dr. G. M. Freeman,  
Los Angeles, Cali.

Dear Sir: I see your ad in the Examiner and would like to have your treatment. I have got the cordee and I don't want to go to our home doctor for I have a family. If you can treat me by mail send me some medisin or a prescription and a bill for your charges and I will forward the money to you. I am a railroad man here and don't want my family to no what ales me. Hoping to here from you soon,

Yours rest. Over.

My address is Seligman, Arizona. E. D. LONG."

"May 11th, 1913.

Mr. E. D. Long,  
Seligman, Ariz.

My dear Sir:—

I have your valued favor of this date and have noted carefully your condition as you have stated it; you are doing right to consult a specialist with many years

experience devoted to this line of diseases. But I regret very much that I have no method of treating you by mail. It will be necessary for you to make at least one trip in to my office for an examination and consultation and I could perhaps fix you up in a very short time.

As you are a railroad man you could perhaps get a few days off and transportation to and from Los Angeles, and I would advise you to try and do this as it is for your best interests.

Hoping to see you soon and regretting my inability to do any "mail order" business, I am,  
very respectfully yours,"

GMF/CBT

Follow up 6/13/13"

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"Seligman, Ariz. 6/16/13.

Mr. G. M. Freeman, M. D.

Los Angeles, Calif.

Dear Sir: Your letter of the 13th received. Will reply that it is impossible for me to come to your office at present. Would like to take your treatment. Would send you a small payment on receipt of some medicine and if benefited would make payments monthly but if you can't take my case by mail I will have to try elsewhere as I am not very bad I think I will get along with home treatment.

Yours very truly,

E. D. LONG."

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"June 17th, 1913.

Mr. E. D. Long,  
Seligman, Arizona.

My dear Sir:

I have your favor of the 16th and in view of the fact that you are unable to come in to see me at this time I am sending you by express C. O. D. a months supply of medicine which will take care of you until you can come in. Follow the directions marked on each bottle and let me hear from you as to your progress.

very respectfully yours,"

GMF/CBT

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"Seligman, Ariz. 6/24/-13.

Mr. G. M. Freeman, M. D.

Dear Sir: Received your shipment of meadison one bottle broken. Find enclosed label of broken bottel so you will know what bottel it is. Pleas send one to replace I will commence taking according to directions. Hope you have received the \$10 on receipt of the exprese. I want to give you a trial it will be impossible for me to come to Los Angeles before the first of August. Hoping to here from you soon,

E. D. LONG."

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"June 25th, 1913.

Mr. E. D. Long,  
Seligman, Arizona.

My dear Sir:

I have your letter of the 24th inst. and also the draft from the express company today, for which please accept my thanks; I am sorry that one of the bottles was

broken in shipment and have today forwarded you by express another supply of the injection, for which there is no extra charge.

If your case is an ordinary one with no serious complications the remedies I have sent you should take care of the trouble all right but as I mentioned in my former letters I make it a rule never to take a case unless I can see the patient for a thorough examination and then knowing all the facts and causes I can prescribe remedies from which I can guarantee a cure; however I trust that you will get along all right and will be able to come in and see me shortly.

With my best wishes, I am

very respectfully yours,"

GMF/CBT

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"Seligman, Ariz. 6/30/13.

Mr. G. M. Freeman, M. D.

Los Angeles, Cal.

Dear Sir: Your letter of the 25 at hand received the injection O. K. and found it pretty strong dope. I gess it is becaus I am not usto taking strong doses that way Hope it will do the work I will continue your remedy and will call at your office as soon as I can get another day off but that will be a month or six weeks.

Yours rsp

E. D. LONG."

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"July 2nd, 1913.

Mr. E. D. Long,

Seligman, Arizona.

My Dear Sir:

In reply to your favor of the 30th June regarding the

injection you received: If it is too strong for you dilute same with pure water, but use it as strong as you can without it burning too much, and I think you will get along all right.

I note that you expect to come in shortly and I think this is the best plan as it is very rarely satisfactory to prescribe for anyone when you have not had the privilege of an examination, and I want to do the best possible by you. Come in as soon as you can.

very respectfully yours,"

GMF/CBT

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"Seligman, Ariz. 7/17/13.

Mr. G. M. Freeman, M. D.

Los Angeles, Cal.

Dear Sir: I have taken your meadison accordin to directions and I can see that I am improving but the mussels are still drawing in time of erection but not bad. I have medison enough to doo 2 or 3 days yet but have injection enough to do a month yet. Would like to continue your treatment till such time till I can get off and come to Los Angeles for examination. I cant tell just when that will be. Pleas send me some more medison I will enclose the labels from the medison that I am out of. Hoping to here from you soon I remain as ever your petient,

Yours resp.

E. D. LONG."

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"1 Mo. 59 by mail.

"July 19, 1913.

Mr. E. D. Long,  
Seligman, Arizona.

My dear Sir:

I have your letter of the 17th, and am sending you today by Parcels Post, some medicine, to be taken as per directions thereon

I trust you will be able to come in and see me at an early date, as I think you will require a little attention to correct the cords and muscles that you speak of and a day or so here will fix you up in good shape.

With my best wishes, I am,

Yours very truly,

GMF/CBT      9/10 Follow up letter."

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"Seligman, Ariz. 10-11-13.

Dr. G. M. Freeman, M. D.

Los Angeles,

Dear Doctor: In answer of your letter of the 7th I am not cured by a hullot. I have bin east for a month to attend the death of my mother and have jus got back at work and just as soon as I get 2 or 3 pay days a hed I am coming to visit your office for I must get this cured. My eyes watters and my back hurts and the thing still draws to one side. If you could send me some medison to relieve it till I can come to see you and oblige, I remain,

Yours truly,

E. D. LONG."

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"October 16th, 1913.

Mr. E. D. Long,  
Seligman, Arizona.

My dear Sir:

I have your letter and have noted carefully your condition. I have forwarded you today by Wells Fargo Express C. O. D. \$10. a full months supply of remedy, to take care of you the best I can until you can find it convenient to run in here and let me give you a thorough examination to find the exact cause of your trouble, and I think then we can get you straightened out in short time.

With my best wishes, I am,

Yours very respectfully,

GMF/CBT      1 Mo. A-50-52

By Exp. C. O. D. \$10.00 10-14 Pd. 11-17."

"NEW      Bakersfield, Cal. May 11, 1913.

Dr. G. M. Freeman,  
Los Angeles, Cal.

Dear Sir/

Seeing you ad. in the Los Angeles Examiner many times I mad up my mind to drop you a line and ask you a few questions and I will put them to you just as if I wer in your office. When I go have an enter-cors with a womon I some times can do very well and then again I can only get what I call it is a half a hard on and I com off in about 3 or 4 strikes. I feell

all Right but if you can do any thing fore me I wold like to here from you.

Your truly,  
WM. WAGNER,  
P. O. Box 824 Bakersfield, Cal."

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"May 11th, 1913.

Mr. Wm. Wagner,  
Bakersfield, Cal.

My dear Sir:—

I have your valued favor of recent date and have noted carefully your condition as you have stated it.

Your trouble is directly in my line of specialty and I have had several years of successful experience and have cured hundreds of cases. Your trouble is no doubt caused by a complication of conditions that you do not realize and you should come in to my office at your earliest opportunity where I have every modern and scientific apparatus, and I will give you a free examination and consultation and then we can arrange for your treatment at your convenience. Not knowing all your symptoms or any facts in the case it would be impossible for me to advise you by mail.

Trusting that I may see you soon and assuring you of my personal attention, with my best wishes, I am  
very respectfully yours,"

HJT/CBT

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"May 5th, 1913.

Mr. J. F. Martin,  
Agua Caliente, Ariz.

My dear Sir:

I have your two letters today and noted contents



carefully. I will try and take care of the party you are sending in to see me to the best of my ability; if he left there on Monday as you wrote he should be here either Tuesday or Wednesday. I want to thank you very much for your kind recommendations and in sending this party to me and will try and reciprocate the favor.

I have today sold out my offices and business to another Doctor but will be here myself for a few days more and my staff including my son, Dr. Charles Tillotson will probably be here indefinitely; but unless you are sure of your resources, etc. and are getting along even passably well where you are I would not advise you to come to Los Angeles just at this time as you suggest. I am going on a vacation for a month or two but will not start for perhaps ten days, so we can take of the party coming now alright, but I wouldn't advise you to come later unless you are sure of your ground.

With my very best wishes and kindest regards, I am,  
Very respectfully yours,"

HJT/CBT

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(Letterhead Hotel Modesti)

"Agua Caliente, Arizona, May 7, 1913.  
Maricopa County.

H. J. Tillotson, M. D.

Los Angeles, Cal.

My dear Sir:

I do not mean to bore you with my letters but your letter of the 5th causes me some anxiety. When I learn you are to leave your offices, As to my resources,

I am not sure that is of money, but as far as board and room goes, I have friends there who will take care of that end of it; but I did not want to go to them if my father came to my assistance. Well my father wrote me yesterday and sent me \$3.00 that is all the money I have and all he can send me for some time and you know that won't go very far. If you go away, would I be sure of getting treatment from your successor or your son until I am well enough to work and then pay for services, if so I can make out all right. I have talked the situation over with the man I am going to come in with and he says I can stay with him when I get there if my friends can't look after me. I feel fine all over and could be working if it wasn't for the swelling that's in my legs. It gets worste the more I am on my feet.

Well Doctor for my part I am safe on board and room when I get there but I can't pay any medical fee until I am able to work, if its possible for you to arrange treatment for me, I am sure I will be far better off than staying here, I regret that you cannot look after me personally but hope it can be arranged for treatment to go on as it has when I come. Please reply soon.

Very truly yours,

J. F. MARTIN."

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"May 9th, 1913.

Mr. J. F. Martin,  
Agua Caliente, Ariz.

My dear Sir:

I have your letter of the 7th inst. addressed to Dr.

Tillotson and he has told me all about your case; I shall be glad to continue treating you and would be very glad indeed if you could come in to see me for a personal examination, etc. so that I could have a more complete idea of your condition etc. but as Dr. Tillotson told you in his letter we wanted you to be sure that you would have some way to provide for your living and necessary expenses while in the city; if you think you can manage this part of it I shall be glad to furnish medical treatment.

Mr. Godeke arrived the other morning and I have been treating him for three days now and I am glad to say that we have the swelling in his limbs almost entirely reduced and he is feeling fine; I want to thank you for your recommendations.

I have purchased Dr. Tillotson's interest in this office and take over all his patients, and would be glad to have you send anyone you can my way.

With my very best wishes, I am,  
very respectfully yours,"

GMF/CBT

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(Letterhead Hotel Modesti)

("OLD PAT.")

"Agua Caliente, Arizona, May 12, 1913.

G. M. Freeman, M. D.

Los Angeles, Cal.

My dear Sir:

I am in receipt of your letter of the 9th inst. and pleased to know I may continue treatment with you; as to my coming to Los Angeles that is now assured; we start from here Wednesday A. M. overland and

expect to reach the city in 10 or 12 days. As to my liveing and expenses; there was some doubt about that, untill I rec'd a letter Saturday from some people I formerly lived with in Los Angeles, telling me to come and stay as long as I wanted too. I thought they had left the city, but fortunately for me they are still there. If Dr. Tillotson is in the city when this reaches you I wish you would thank him for kindness extended me and if circumstances permit and I am in the city when he returns tell him I will see him personally. I can only do with you as I have done with Dr. Tillotson, relative to my account, and when I am able to work pay you as I can; I have a large acquaintance in Ariz. & know several people in Los Angeles, and I will try to get you all the patients I can. 'The man I am to drive in with, has a bad rupture and Liver trouble, so he says, and is talking of haveing some Clinic school there to operate on him. I will make an effort to induce him to come and see you first. He is pretty well broken up in health, about 65 yrs old but worth about \$10,000, he was advised by some Dr. in Los Angeles to take a trip to Arizona overland and instead of improveing he is worste, so with myself under the weather and him and the horse to look after I am going to have my hands full on the trip, but it is my only chance to get there and I will have to make the best of things. Unless something unforeseen happens I will not write again but will call at your office as soon as I reach Los Angeles the medicine Dr. Tillotson has been giving me has helped to reduce the swelling in my limbs some, but if I am on my feet much they swell up pretty bad. However there is a marked improvement and I

trust you will pull me through. I thank you for stamps and am returning what I will not need, thanking you for kind letter I beg to remain,

Yours very respt.

J. F. MARTIN.

P. S. We are all glad here to know Mr. Godeke is getting well."

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(“NEW”) “Clifton, Arizona, May 12-13.  
Mr. G. M. Freeman,

Dear Sir: This will purhaps be a queer letter for you to read but I hope it will give you a pretty good idea of why I am so cautious. I am going to be married in August and feel as though I aught to consult with a man of your standing considering the recent trouble I have had. I feel it my duty that I be absolutely shure of every thing. This is all I will write you this time but will ask that before we go any farther that everything that goes between us in any way must be absolutely confidintial. That all mail or packages that may be sent me must be free from any writing denoting the sender. This must be between must you and I because to have anything get out amongst the people hear would be more than ruin to two lives. I believe you can understand me Dr. and we'll look for your early reply. I am (Over)

Yours truly,

HARRY NEIKEN,

Box 105, Clifton, Arizona.”

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"May 15th, 1913.

(Box 105)

Mr. Harry Neiken,

Box 105, Clifton, Ariz.

My dear sir:

I have your favor of recent date and have carefully noted your statements. I am sorry to state that it would be necessary for you to appear at my office for an examination before I could pronounce you free from any disease and eligible to marriage, or before I could prescribe a course of treatment for you. I have no "Mail order" methods; My treatments are based entirely on scientific principals and here in my office I have every modern equipment and appliance for the proper administration of my methods which have proved very successful in my several years of experience in Los Angeles.

Would it be possible for you to run out here for a few days and let me look you over and thus place you in an absolutely safe position as regards your intended marriage and might save you much trouble and unhappiness? I will grant you a free examination and consultation and if you need no treatment I will tell you so.

With my best wishes and trusting to hear from you, I am,

Very respectfully yours,"

GMF/CBT.

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"Clifton, Arizona, May 19, 1913.

"Your most open and frank letter received and I want to thank you for your most kind advise but I am



sorry to say that it would be impossible for me to go to Los Angeles to see you.

I am very sorry that you could not give me your opinion of my condition through the mail. I have the honest word of two Drs. in this town that there is no germs of that kind in me now but I would like to have the good judgment of a specialist but I believe these Drs. ought not to give a man the right to marie unless they were shure it was all right.

I am very thankfull for your kind answer Dr. and wish you the best of wishes and if I owe you anything for your services so far I would be pleased to pay. Again thanking you I am,

Yours very truly,

HARRY NEIKEN.

P. S. Over.

P. S. Although these Drs. here are not Specialists on these kind of troubles I beleave I am safe in taking there word."

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"May 27th, 1913.

Mr. Harry Neiken,

Box 105, Clifton, Ariz.

My dear Sir:

I have your letter of the 19th inst. and note that you feel it impossible to come in to Los Angeles for an examination and that local Physicians have pronounced you all right. I hope you will understand that it would be fair neither to you or to myself for me to pass an opinion on your case without the privilege of of a personal examination, and I trust that the Physicians you have consulted have given you a proper test, such as a

microscopic slide, bacteria test, and urine analysis, which is only a part of the examination to which I would subject you were you in my office. Marriage, my young man, is a very serious matter and you want to be absolutely sure that you are absolutely clear of any trace of disease before you ask any girl to share her life with you; and only too often I find cases where proper precautions have not been taken and unhappy results always follow.

You owe me nothing for this advice but if I can be of any service to you at any time I trust you will call on me or refer any friends who may need any attention.

Wishing you all the success in the world, I am,

Very respectfully yours,"

GMF/CBT

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(NEW) "Goldfield, Nevada, May 14, 1913.

Dr. G. M. Freeman,

Los Angeles, Calif.

Dear Sir:

Circumstances are such that it is almost impossible for me to call on you now, much as I would like to, hence this letter—

Since reading your little book "The Road to Perfect Manhood" I will give you all my symptoms. I feel sure that I am suffering from spermatorrhea.

I suffer from siminal emissions at night which are beyond my control—These happen about once a week and are weakening my constitution—It is always in the form of a dream and I am always awakened by it. They have come every week for little over a month now. Formerly they were two weeks and a month

apart. Am more easily exhausted than formerly and for the past week I have felt a weakness in my back—not actual pains but a sense of weakness, and almost the same feeling in my testicles—I can still have sexual intercourse but the act is shorter than it should be and my powers of erection are also weaker. At times when I have an erection there is a small amount of watery semen escapes. If there is any escapes with my urine I do not know it. I have no pimples on me or any other symptoms other than those described. Appetite and digestion are normal—When a boy I practiced the vice which you say is one of the chief causes of this disease but only for a short time. I am thirty now and unmarried but have always been with women freely until the last year. I was in the mountains and thrown away from their society and then was when my nightly emissions first came.—Have always been of a highly nervous and emotional disposition and for the last five years have worked at night a good portion of the time and trying to sleep days has helped to make me more nervous—have also worked for over two years now without a days rest and part of that time has been night work and I am worked out and my system is run down.

I trust you will candidly advise me about this trouble and tell me if you can cure me or give any relief. If I haven't stated my case fully enough I will gladly answer any questions you may ask. I have never had any diseases of the organs before and am worried very much about this.

This is a small mining camp where every one is known and I naturally desire this to be known only to

you, so please address me in a plain envelope without any marks whatever. Advise me about the cost of treatment, etc. in your letter. I will probably have to pay you on the installment plan as I am supporting my father who is over eighty and a crippled sister but I must have relief if possible.

Please advise me as soon as possible and I shall be very grateful to you.

Yours very truly,

W. S. GREGSON."

Box 613—Goldfield, Nevada."

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"May 17th, 1913.

Mr. W. S. Gregson,

Box 613, Goldfield, Nev.

My dear Sir:

I have your letter of the 14th inst. describing your condition in detail, and I feel confident that with my years of experience in the practice of my Specialty that I could correct your trouble in a very short time. It would however be impossible for me to prescribe for you by mail, as a personal examination to give me a correct diagnosis would be absolutely necessary. There are perhaps other complications contributing to your weakness that I would have to find and correct before I could promise you a complete and permanent cure.

Trusting that you will find it convenient to make a trip here for a few days and put yourself under my personal care and where you will have the benefit of a personal consultation which is the only certain way for

a Physician to know his case, and with my very best wishes, I am,

very respectfully yours,"

GMF/CBT

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"Goldfield, Nevada, May 21, 1913.

G. M. Freeman, M. D.

Dear Sir:—

Replying to yours of the 17th inst. will say that this being the vacation season and several of the men are away at present so that it would be impossible for me to leave just now without giving up my position entirely—By the first of July I can get away all right and I suppose I will have to wait until then unless my troubles gets worse—In that event I shall give up my place if I can't get a vacation—Since writing you there hasn't been much change in my condition except that I have had no emissions at night for over fifteen days now and I feel a little better for that.

I appreciate your letter and advices very much and shall call on you as soon as I can come to this city.

Yours very truly,

W. S. GREGSON."

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"May 24th, 1913.

Mr. W. S. Gregson,

Goldfield, Nevada.

My dear Sir:—

I have your letter of recent date and note that you will be able to come down and see me about the first of July; this is the best plan as then I can look you over carefully and have a full understanding of your

case and can then intelligently prescribe for you so that your cure will be prompt and permanent.

With my very best wishes and trusting to see you at the earliest possible time that you can come, I am

very respectfully yours,"

GMF/CBT

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"July 15, 1913.

Mr. W. S. Gregson,

P. O. Box 613, Goldfield, Nevada.

My dear sir:

You wrote me that you would be in for consultation and examination, about July 1st, but up to this time I have failed to see anything of you.

I would like to know how you have been getting along and if it would be possible for you to come in and see me. My advice would be not to neglect your condition any longer than possible, as diseases or disorders of any kind seldom get well themselves, and should have prompt attention by a competent doctor.

With my best wishes, and trusting to hear from you soon, I am,

Yours very truly,

GMF/CBT

(Follow up 11-17-13.)

"El Paso, Tex. 5/11/13.

Dr. G. M. Freeman,

Los Angeles,

Dear Sir:

I am dropping you a few lines to let you know of what I suffer five years ago I contracted a Disease a bad dose



of Gonorrhea. I had it for two years and half. All of a sudden it stoped. But I knew I wasn't well when it did stop for I have felt sick ever siense. I feel just as you describe it in the Los Angeles Examiner. Inclosed you will find clipping and I wish to tell you that I feel just as the clipping reads. I have no ambition. Whatever and I feel lost of vitality. My kidneys pain morning noon and night, my back pains me, always nervous and can't sleep at nights; Now Dr. I wish to tell you that this Dose is running again it has now been running on me for three months and I am feeling worst every day. I may have stricture. But how can I tell and I also wish to tell you Dr. that part of my break down is due to the fact that when I were a kid I abused myself and as I have now read the laws of nature, I feel the results of what then I didn't realised what bodily harm I was doing my self always when talking to some one that Bashful feeling comes up of course you know the rest. So I trust in you. That you shall cure me of all that I complain of so please answer soon and let me know what you will charge me also if I have to send advance money for medicine.

I wish to tell you also that there are two little sores at the end of my canal which are call soft schankers. Excause the word. But I must tell you what I have. I remain hoping to hear from you real soon, I am,

Very truly yours,

J. M. RAMIREZ.

No. 501 E. Boulevard St.

El Paso, Tex."

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(NEW)

"May 15th, 1913.

(501 E. Boulevard St.)

J. M. Ramirez,

El Paso, Texas.

My dear Sir:

I have your favor of recent date and have carefully noted the description of your case as stated in your own words. Your trouble is right in my line of specialty and I assure you that with my experience and my office supplied with every modern scientific appliance that I could no doubt correct all your troubles in a very short time. It would be necessary however for you to come to my office for examination and treatment as I have no "mail order" methods, I take every case under my personal care which insures immediate benefits and permanent cures.

With my best wishes and trusting that you will find it convenient to pay me a visit in the near future, I am,

Very respectfully yours,"

GMF/CBT

"El Paso, Tex. 5/18/13.

Dr. G. M. Freeman,

Los Angeles.

Dear Sir:

Yours of the 15th inst. rec'd which I was very glad to hear from you. But am sorry to say that it is impossible for me to call at your office for examination. I hoped so much that you would be able to cure me at home. But as you say you have no (mail order methods) I just don't know what to do, and I must be cured for I am feeling worst every day. So please answer

soon and let me know if you cannot cure me unless I call at your office. Dr. if you can do anything for me I wish you please would, and it would be a great favor you would do me, hoping to hear from you soon I am,

Yours truly,

J. M. RAMIREZ,

El Paso, Tex."

No. 501 E. Boulevard

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"May 21st, 1913.

Mr. J. M. Ramirez,

501 E. Boulevard, El Paso, Texas.

My dear Sir:—

I have your letter at hand this morning and will repeat that it would be necessary for you to make at least one visit to my office in order for me to make an examination as to all the causes of your trouble before I could honestly prescribe any treatment.

With my long experience in the successful treatment of the diseases of my specialty I feel confident that I would bring about very satisfactory results in your case in a very short time and if it is at all possible for you to make a short trip out here I would advise you to do so. If not I would advise you to consult some good reliable physician of your city.

Hoping that I may be able to be of service to you, and with my best wishes, I am

very respectfully yours,"

GMF/CBT

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"El Paso, Tex. 6/17/1913.

Dr. G. M. Freeman,  
Los Angeles.

Dear Sir:

Yours of the 13th inst. Rec'd. which I was very glad to hear from you. In regards to what you say, I wish to thank you very kindly for your kindly advice, as I told you in my last letter that it was impossible for me to call at your office for examination, and I am sorry to say. But I am being cured now by Dr. Ketchersid, the International Specialists of El Paso, Tex. So thanking you very kindly and sorry I could not come to Los Angeles to see you for treatment, I remain,

Yours truly,

J. M. RAMIREZ."

"June 20th, 1913.

Mr. J. M. Ramirez,  
El Paso, Texas.

My dear Sir:

Your favor of the 17th received and I am glad to learn that you are receiving competent treatment and I trust you will soon be entirely well.

Should you ever come out this way or need my advice in anyway I would be glad to see you.

With my very best wishes, I am,  
GMF/CBT                      very respectfully yours,

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"Gold Road, May 14th, 1913. (NEW)

Dr. G. M. Freeman, Los Angeles, Cal.

Dear Doctor:

I shall greatly appreciate if you will kindly give me

your advice on my case. I am unable to call at your office being too far from Los Angeles.

I am 34 years old, 5 ft 11—165 lbs. single, suffer with spermatorrhoea since ten years. This due to early dissipations when I was 12 to 16 years old. Never had any blood disease. Tried every kind of treatment without results. Lost my position and memory and all the money gone in travelling expenses and doctors fees. I have very heavy losses of semen every day. If you think you can cure me I will owe you more than my life. The early reply stating your fee and conditions will be greatly appreciated.

Yours very truly,

H. THEURIET,  
Gold Road, Arizona."

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"May 15th, 1913.

Mr. H. Theuriet,  
Gold Road, Ariz.

My dear Sir:—

I have your favor of the 14th inst. and have noted carefully all you say regarding your condition, and I assure you that if you could come in and see me for a few days that I could bring about good results in your case, but I have no "mail order" treatments of any kind and unless you can come in to my office it would be impossible for me to do anything for you. By coming here you would be under my personal care and attention and have the benefit of my long years of successful experience. Also in my offices I have every modern apparatus and appliance for treating the diseases of my specialty and you would be assured of

proper treatment. It would be a pleasure to me to correct your troubles and give you back your health and manhood.

If you can possibly come to Los Angeles I would advise you to do so for your very best interests, and I will grant you a Free consultation and examination and if I cannot convince you of my ability to cure where others have failed you will not be obligated to take my treatment or pay me a cent. Isn't this a fair proposition?

With my best wishes, and trusting that I may see you soon, I am,

Yours very respectfully,

GMF/CBT

---

"Gold Road, June 16th, 1913.

Dr. G. M. Freeman,  
Los Angeles, Cal.

Dear Doctor:

Your favor of the 13th inst. just at hand. I beg to inform you that though anxious to call at your office, it is quite impossible for the present. I could not meet the expenses of the trip, fees and living expenses for the time I would have to stay in Los Angeles. I have been hurt in the mine last week and compelled to stop working. That will not help me. I shall appreciate if you will let me know approximately what are your fees and how long. I will have to stay at Los Angeles



so I could judge as soon as I should be able to go and see you. Thank you for your kind letter.

Yours very truly,

H. THEURIET,  
Gold Road, Arizona."

---

"June 19th, 1913.

Mr. H. Theuriet,  
Gold Road, Arizona.

My Dear Sir:

In reply to your favor of the 16th inst. I would advise you to come in and see me if you can stay but one day or long enough for me to go over your case thoroughly and get a correct Diagnosis of your trouble, which is necessary before I could intelligently prescribe for you or promise you a satisfactory and complete cure.

I am sorry to hear of your injury in the mine and trust it will not seriously delay your coming to see me. You need not worry any about my charges; the fee is not my entire consideration, I want to get you back to perfect health and strength again, and my charges will be no greater than you are able and willing to pay.

Trusting that you will be able to come in and see me soon and with my very best wishes, I am,  
very respectfully yours,"

GMF/CBT

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"July 12, 1913.

Mr. H. Theuriet,  
Gold Road, Arizona.

My dear Sir:

I have been wondering how you are getting along and if it would be possible for you to come in and see me.

I wrote you in my letter of June 19th that money was not my entire consideration, and that if I felt that you were sincere in your desire to obtain a quick and permanent cure, that we could no doubt arrange payments that would be satisfactory, and trust that you will be able to come in and see me at an early date.

With my very best wishes, I am,  
GMF/CBT                      Yours very respectfully."  
(Last follow up 11/14/13.)"

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Gold Road, Nov. 20th, 1913.

Dr. G. M. Freeman,  
Los Angeles, Cal.

Dear Doctor:

Your favor of the 12th inst. at hand. In answer I will say that I am perfectly convinced that no medicine can cure me. I tried so many, some from very good doctors some from quacks, that now I can see my mistakes. Sometimes after a month or two of treatment I got some relief, but as soon as the stomach get use to it the improvements stops and after I am worst than before. The art of medicine has made great progress in some branches but in regard to my case, it is as far advanced than it was last century.

I had too many promises to be cured to have any faith now. If you think you could cure me, I appreciate your kindness to offer me your services.

Yours very truly,

H. THEURIET."

---

"November 21st, 1913.

Mr. H. Theuriet,

Gold Road, Arizona.

My Dear Sir:

I have your letter of the 20th inst, and have carefully noted what you have to say. I do not care how many Doctors have failed with your case I feel confident that I can correct all your troubles in a very short time, if you will allow me to make a thorough examination and get a true diagnosis. I am so confident that I can do this that if I cannot help you I do not want any of your money. I trust you will be able to come in and see me soon for I know that you are sincere in your desire to effect a cure and to regain and keep your full strength, and having taken a deep personal interest in your case I want to do everything possible for you.

Trusting to see you soon and with my best wishes,  
I am,

Yours very respectfully,

GMF/CBT

---

"Lordsburg, Cal., May 17, 1913.

Dr. G. M. Freeman,

Your letter advises prospective patients to consult Dr. Hamilton. On the other hand, you ad indicates

that you have bought out another concern and advertising for customers. How is it? You asked 75 dollars for my case which I could not do. If you will take it for 50 dollars accept 10 dollars down and balance at time or before you are through, will call at my earliest convenience. Please advise.

Respy,

Plain envelope, please.

A. R. PECK."

(PAT)

(Called June 7-12)

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"May 20th, 1913.

Mr. A. R. Peck,

Lordsburg, Cal.

My dear Sir:

Your favor of the 17th inst. at hand and carefully noted. At the time the letter you mentioned was sent out I did not know that I would later buy out the office and business of Dr. H. T. Tillotson, but I now have the finest and best equipped office for the treatment of the diseases of my specialty in the Southwest and am better able than ever to offer you the best professional services.

From your letter I take it that you are sincere in your desire to obtain a cure, and to show you that the fee is not my entire consideration and that I want an opportunity to help all who are afflicted, if you will come in and see me at an early date I will take your case on your terms and give you my best personal attention.

Trusting to see you soon and with my best wishes,  
I am,

Very respectfully yours,  
HTT/CBT."

---

"July 12, 1913.

Mr. A. R. Peck,  
Lordsburg, Calif.

My Dear Sir:

It has been over a month since you were in and commenced treatment, and as I take a personal interest in all my patients, I would like to hear as to your progress, and if it is convenient would be glad to have you come in and see me. Your medicine must be gone by this time, and if you need a new supply, be sure and let me know.

With my very best wishes, I am,

Yours very truly,"

GMF/CBT

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"Lordsburg, Cal., Aug. 25, 1913.

Dr. G. M. Freeman,

Dear Sir:

Inclosed money order 5 dollars. Please send in plain wrapper by Wells Fargo Express viz. Pacific Electric supply medicine. Expected to be up before now. Will soon as possible.

A. R. PECK. 5.00 O. K."

---

"August 26th, 1913.

Mr. A. R. Peck,  
Lordsburg, Cal.

My Dear Sir:

Your letter at hand and contents noted, and I am forwarding by Wells Fargo Express today a months supply of medicine as per your request; I shall be glad to have you run in and see me whenever it is convenient.

With my very best wishes, I am,

Very respectfully yours,"

GMF/CBT

IMO.—86—Q 40."

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"Lordsburg, Cal., Oct. 21, 13.

Dr. Freeman,

Please send supply medicine by Wells Fargo express in plain wrapper, marked via Pac. Elec. Ry. Five dollars enclosed.

A. R. PECK. 5.00."

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"October 22nd, 1913.

Mr. A. R. Peck,  
Lordsburg, Calif.

My Dear Sir:

Your letter with remittance received; many thanks. A Months supply of medicine has gone forward to you today marked "via Pacific Electric Ry." as requested and I trust same reaches you in good order. You failed to report on your condition so I do not know how you are getting along. I trust you are improving



and you will if you take this medicine regularly.

With my best wishes, I am,

Yours very respectfully,

GMF/CBT      1Mo.—86—Q—40 By Exp. 10-22."

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"Bakersfield, Cal. May 18, 1913.

Dr. Freeman:

Enclosed find order for \$5.00 on same as a visit account as I want a prescription for weekness. I am 24 now and for the past 6 years I hit the high places in all its branches. I have turned so now that when ever it gets hard there is a discharge just the same as if I had an intercourse with some women and believe me it has me pretty week in strength and in mind right now. What I want is something even to stop me from getting so passionate and I have a little will power left. Put plenty of salt pedder in your prescriptions just as the army does for the soldiers. It happends to me 4 out of 6 nights a week now.

Kindly send prescriptions so as I can have it filled and state your fee also. I will send as soon as I can make a little money if the \$5.00 is not enough for this prescription. Do this doctor for a fellow who need a turn in life.

Address M. Murphy, c/o T. L. Hathron, Box 802 Bakersfield. Cal. In plain envelope please. Hoping this is plaine to you will close.

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(PAT) "May 19th, 1913.

Mr. M. Murphy,  
c/o T. L. Hathorn,  
Box 802 Bakersfield, Cal.

My Dear Sir:

I have your favor of the 18th inst. with money order for \$5.00 and I have noted carefully all you have said about your condition. Before any Physician can give his honest opinion and make a correct diagnosis of any case so he can intelligently prescribe for the treatment of same, it is necessary that he see his patient personally and make a thorough and complete examination as to causes; in my wide experience I have found that there are often many causes contributing to the weakness you speak of, which have to be remedied before a cure can be effected, and of these the patient is many times not aware. The only way for this to be done would be for you to run down and see me so that I can go over your case with you privately and in detail, and then I would know just what treatment to prescribe for your individual case and could no doubt have you fully well in a very short time. I have no "Mail order" methods but after a visit to my office and a thorough knowledge of your case, if it is not possible for you to remain a few days I can probably prescribe treatments that you can take home with you.

Trusting that I may have the pleasure of seeing you soon, and with my very best wishes, I am,  
very respectfully yours,"

GMF/CBT

---

"Bakersfield, Cal. May 20, 1913.

Mr. Freeman:

Received your letter Tuesday and fully expected some kind of a prescription in it. You state that I should come to Los Angeles to see you but that is practically impossible. I am a bricklayer by trade and working here with my brothers who don't know my failing so there fore I cannot come as they would let my mother and sisters in on it. I want this personal if possible.

This statement ought to be clear enough for a prescription to start with any way and help a fellow I am 24 years of age don't drink or smoke never had either in my existence but got in with a fellow who abused himself and taught me the same. I done that for 2 years at least and then got money and went with French girls such as being blowed off and all that kind finely it got so that I dreamed off each night and it has got me weak in helth strength and mind so you see thats the story all told. My kidney hurt from a dull back ach on account of being week.

You ceartenly can understand that. Kindly send prescription so I may start anew and you ceartenly will be paid your feet. Address M. Murphy, c/o T. L. Hathorn, Box 802, Bakersfield, Cal."

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"May 24th, 1913.

Mr. M. Murphy,  
c/o T. L. Hathorn, Box 802,  
Bakersfield, Cal.

My Dear Sir:

I am in receipt of your last letter and have care-

fully noted your statements and am exceedingly sorry that you find it impracticable to come down and see me at this time. I have taken a personal interest in your case and would like to have the opportunity of finding and correcting your trouble which I think I could do in a very short time if I could but see and examine you in person.

I am sending you by parcel post this after noon a supply of medicine which will help you along until such time as you can come to have a complete examination; understand however I cannot promise you a complete cure as that would not be fair to either you or myself, as in most every case I examine I find some trouble which the patient did not realize was contributing to his weakness, and I must first find and correct this cause before I can promise you a complete and permanent cure. The tablets I am sending you will be palliative in action and will help you along until such time as you may find it convenient to come in and see me.

With my very best wishes for your health and success, I am,

Yours very respectfully,"

GMF/CBT

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"Bakersfield, Cal. May 26, 1913.

G. M. Freeman, M. D.

Rec'd your letter also Medicine today and will start taking them as directed on box. Will let you know if any improvement is anexed out of medicine.

In meantime glad to get a start on new life once again.

M. MURPHY,  
Bakersfield, Cal."

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"July 15, 1913.

Mr. M. Murphy,  
P. O. Box 802, Bakersfield, Cal.

My dear Sir:

I would like to have a report on your condition, as it has been some time since you commenced treatment, it is absolutely necessary that you give me your co-operation and follow instruction as regards taking the medicines prescribed, if you expect to get good results.

With my best wishes, and trusting to get a favorable report from you soon, I am,

Very respectfully yours,

GMF/CBT"

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"Bishop, Calif. May 20 13.

Am writing you in regards to a very displeasurable rash that has be on my face for some time. My face is very numerous with blackheads and these blackheads and these form into pimples and is a very displeasing sight. I know it was not brough on by follies of youth, for I am certain I was never induced to such temptations. I have had quite a bit of intercourse with young women but I think that is not the cause of it. If you could give me any advise on the matter or if you could or had a treatment for such that could be sent by mail

I would gladly pay well for it. Hoping to hear from you at the earliest convenient time, I remain,

ARTHUR M. CLARK,

Bishop, Cal. Box 254.

P. S. Will say I am infected with night losses when am out of town occurring about 1 every 10 day."

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(Pimples, RaHS, Night losses—)

"May 22nd, 1913.

Mr. Arthur M. Clark,

Box 254, Bishop, Calif.

My dear Sir:—

I have your favor of the 20th inst. regarding your condition and feel sure if you will call and see me that I can find and remove the cause; but no Physician can honestly prescribe for or get a correct diagnosis of any case without the privilege of a private examination, therefore I would advise you to make a trip to Los Angeles and let me look you over and if you find it impossible to stay a few days I can perhaps arrange for a . . . . treatment to be taken with you.

Hoping that you will be able to come down and see me and assuring you of my best personal attention and my best wishes, I am,

Very respectfully yours,"

GMF/CBT

(No. 1 Follow up letter 6-13).

"July 15, 1913.

Mr. Arthur M. Clark,

P. O. Box 254, Bishop, Cal.

My dear Sir:—

I have written you two letters since your inquiry



dated May 20th, and had hoped to hear from you before this time.

From the description of your trouble, you should have competent medical attention, and as I wrote you before, I am in a position—with long years of experience, to render you valuable assistance, and I trust you will find it convenient to come in and see me, or at least to favor me with a reply.

With my best wishes, I am,

Very respectfully yours,"

GMF-CBT

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"Swansea, Calif. July 24, 1913.

Mr. G. M. Freeman,

Dear Sir:—

Rec'd your letter of the 15th inst. Would of answered your letter of past date only I mislaid it and through carelessness neglected to write. But will endeavor to explain to you the reasons for not making a call on you before this time. At present am operating a tramway for a salt co. and have made them a promise I would remain with them for the period of one year. I also know that I need this medical attention but must postpone my trip to your city until this winter. They close down for the course of 2 mo. on acct. of snow and as soon as these months come you can depend upon me to make a call on you. But I wish to ask your advice as to what I could do in the mean time. Is there such a thing as overeating or eating certain articles. I would like to keep in corresponding

with you on the matter until I can come and see you personally. Hoping to hear from you soon, as ever,  
c/o Saline Valley Salt—ARTHUR CLARKE,  
Company," Swansea, Calif.

---

"July 26th, 1913.

Mr. Arthur M. Clark,  
Swansea, Cal.

My dear Sir:—

I have your favor of the 24th inst. and note your new location and inability to come and see me soon. In view of this fact and to take care of your condition in the meantime I would recommend that you allow me to send you a course of treatment until such time as you can come in for an examination. This I will do for \$10. per month if satisfactory with you, and I will give you something to clear up the rash and pimples, and also to take care of your losses.

When you reply please fill out and return the attached blank in as far as it applies to your case, so that I may have as concise a history of your complaint as possible.

With my very best wishes, I am,  
GMF/CBT very respectfully yours,"

---

"November 17th, 1913.

Mr. Arthur M. Clarke,  
c/o Saline Valley Salt Company,  
Swansea, Calif.

My dear Sir:—

I had some correspondence with you some time ago relative to your health and you said you expected to

come in to see me this winter. I trust that your condition has not grown any worse and that you will be able to come down for a thorough examination and start treatment soon.

Trusting to hear from you soon and with my very best wishes, I am,

Yours very respectfully,"

GMF/CBT

---

"Hayden, Ariz. May 31, 1913.

Dr. G. M. Freeman,

Dear Sir: I am afflicted with varicocoele on the left side. It does not give me any pain. I am a locomotive fireman and I can't get employment, the doctors turn me down when taking examination. If you can make the notted veins disappear I would be glad to try your cure.

Yours truly,

EDGAR BANKS."

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(NEW)

"June 2nd, 1913

Mr. Edgar Banks,

Hayden, Arizona.

My dear Sir:—

I have your letter stating that you are afflicted with varicocoele and I appreciate your position for I know just how it affects and drags a man down. I am a Specialist of long years training and experience along these lines and I assure you that I can remove every sign of your trouble if you will come in to my office and let me look you over and prescribe the proper treatment. It will be absolutely necessary for you to come

here for a few days treatment as I have no "mail-order" methods, I treat to cure and stay cured.

Trusting that you will be able to come in to see me soon and with my best wishes, I am,

very respectfully yours,"

GMF/CBT

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"Los Angeles, Cal. 6-18-13.

G. M. Freeman, M. D.

Dear Sir:

Yours of the 17 at hand and in reply will say that I think you are too high with your fees so I had to go to my family Dr. I am getting along slow. Am getting better. I would of liked too of taken the 606 treatment but you wanted moor money than I could pay.

Hoping this will reach you, I am,

Yours truly,

W. J. HARDY."

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(Prosp)

June 20th, 1913.

Mr. W. J. Handy,

4210 Nassau St., City.

My Dear Sir:—

I have your favor of the 18th inst. and I am sorry that you did not let me know when you were in here that you felt unable to pay the fee that I named you and which is the usual one; The "914" treatment is what you want and will correct your trouble for all time; that fee is not my entire consideration. I want to be of help to everyone who is afflicted and if you will come in and talk things over with me, I think we can arrange my charges to your entire satisfaction as I

think you are sincere in your desire for a cure and I want to help you.

Hoping to see you soon, I am,

very respectfully yours,

GMF/CBT

(Called June 2nd—2 follows ups—N. G.)

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(Letterhead: Mint Pool Hall and Smoke House,  
Casner Brothers)

(Rec'd 20.00 Glad to have call at new office.

“Lordsburg, N. Mex. May 21, 1913.

Dr. G. J. Freeman,

254 S. Broadway.

Dear Sir:—

Find enclosed money order for \$20 (twenty dollars) a payment on my account. Please acknowledge receipt of this so I will know whether or not I have the right address as I see in the papers you have changed.

Have entirely recovered from my recent illness and am feeling fine again. Will be in Los Angeles some time this summer and will come around to have you make blood test.

Will make final payment of \$15 next month.

I beg to remain,

Yours sincerely,

JOHN H. MENZIE,  
228 So. 4th Ave. Tucson, Ariz.”

---

“May 24th, 1913.

Mr. John N. Menzie,

228 So. 4th Ave. Tucson, Ariz.

My dear Sir:—

Yours received this morning with enclosure of \$20

for which please accept my thanks and your account has been duly credited.

I have purchased the office and equipment of H. J. Tillotson, M. D. corner third and Broadway and now have the finest office in the Southwest; I shall hope to have you refer some patients to me. I note that you expect to be in Los Angeles this summer and I shall indeed be glad to see you at any time.

I am glad to hear that you are getting along nicely and shall hope to hear that you continue well and prosperous.

With my best wishes, I am,  
GMF/CBT                      very respectfully yours,"

"Lordsburg, N. Mex. July 9, 1913.

Mr. G. M. Freeman, M. D.

Dear Sir:—

Find enclosed \$15 final payment on my account.

Do not know just when I will be in Los Angeles, but will be around to see you when I do get there.

Yours respectfully,

JOHN H. MENZIE,  
228 So. 4th Ave. Tucson, Ariz."

(Rec'd \$15.00 Thanks.)

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"July 12, 1913.

Mr. John H. Menzie,  
228 South Fourth Avenue,  
Tucson, Arizona.

My Dear Sir:

Yours of the 9th, with \$15.00 enclosed, received, for which please accept my thanks.



Will be glad to see you when you come in, and with  
my best wishes, I am,

very respectfully yours,"

GMF/CBT

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"Wineville, Cal., May 21, 1913.

Dr. Freeman,

My dear Sir:—

I see that you have moved. Now, I want to know  
if you want me to come and see you any more. I am  
a great deal better than when I first came to see you,  
but I was wondering if you would write me a prescrip-  
tion that would be a little extra stimulating on the  
sexual organs. I have got a girl in Los Angeles and  
I guess you know the rest.

I am not quite able to keep up with what she wants  
and if you could help me in that line it would be greatly  
appreciated.

Yours truly,

FRANK STEPHENSON,  
Wineville, Calif."

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(PAT)

"May 26th, 1913.

Mr. Frank Stephenson,  
Wineville, Cal.

My dear Sir:—

I have your letter of the 21st inst and was glad to  
hear from you. I now have one of the finest and best  
equipped offices in the Southwest and will be pleased  
to see you at any time, and I think I will be able to

fix you up in the best possible manner if you will call.

Trusting to see you at an early date, I am,  
BMF/CBT                      very respectfully yours,"

(PAT)              "Lone Pine, Calif. May 26, 1913.

Dr. G. M. Freeman,  
254 S. Broadway,  
Los Angeles, Cal.

Dear Sir:

I became inoculated with syphilis 3 years ago last Jan. I let it run until the secondary stages began to appear and there commenced a vigorous treatment of mercurial injections, combined with iodides internally. I took about 65 of these treatments the first year. I then moved to Los Angeles and rested from treatment for about 8 months and began and took about 20 injections of "caccadyliate" (I am not sure of the spelling but I hope you will get the name correctly). I then let things run as they were for about four months and began to take Parke Davis & Co. "mixed treatment No. 1" the formula of which is:

Potassium Iodide 2 grains.

Syrup of Ferrous Iodide 5 Mins.

Mercuric Chloride Corrosive 1-64 gr.

Solution Arsenams & Mercuric Iodides 2 mins.

Tuict Nux Vamica U. S. P. 1880 2 mins.

I took 3 tablets a day and in the last year have used about 400 tablets as I found that I could not stand them continuously on account of my stomach.

I have a swelling on the forehead that diminishes in size and will finally disappear upon taking a few tablets—but it reappears in a short time. I have had a

few blotches on my forearm but they only last a few days and disappear also. I have no other swellings—neither Have I any bone pains except a bad headache after a short time has passed since taking treatment or using the mixed treatment I spoke of. Otherwise I feel and look perfectly healthy. I am out doors every day—leading a very active life—sleep outdoors etc.

Now what I want is this—a treatment that *will not hurt my stomach—one that will suppress all symptoms and not cause any eruptions*. In fact I want a treatment that even if it does not cure, will suppress the indications from public view. As soon as I can I intend to come in and get a treatment of No. 914. I will be greatly obliged if you will send me all information possible on this subject—together with the costs and the after effects, but at this time it will not be possible for me to get away, so I want the other treatment and if possible I want it *not in fluid, but tablet form*.

I hope my statement of condition etc. has been clear enough but in case it has not—please send me a symptom blank which I will fill out and return at once. Also tell me what your charges will be etc. I will be greatly obliged if you will use plain paper and envelope in answering.

Hoping to hear from you at once, I am,

Sincerely,

H. M. PEFFLEY,

c/o E. Robinson Estate, Lone Pine, California.”

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"May 28th, 1913.

Mr. H. M. Peffley,

Lone Pine, Calif.

My dear Sir:—

I have your letter and have carefully noted all your statements, and what I believe you should have hust as soon as you can possibly come in to see me is the "914" or improved "606" treatment from which all the objectionable features of the original "606" have been removed. This, I feel positive, will cure you of your trouble for all time, if properly administered as I give it here in my well equiped office, using only the genuine imported Dr. Ehrlich's "914". I shall be glad to explain to you all the details of this marvelous discovery when you come in.

In the meantime for your temporary relief I am sending you a course of treatment of my own prescription which I find superior to anything else as it causes no derangement of the stomach.

I would advise you to come in and see me at your earliest convenience, for I appreciate your position perfectly, and want to see you obtain permanent relief.

Hoping to see you soon, and with my very best wishes, I am,

very respectfully yours,"

GMF/CBT

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"Lone Pine, Cal. June 16, 1913.

Dr. G. M. Freeman,

524 S. Broadway, Los Angeles, Cal.

Dear Doctor:

I wrote to you some time ago giving you as best I

could the symptoms in my case and asked you concerning No. 914 treatment. You sent me treatment and it has benefited me a great deal. In fact the swelling on my forehead has almost entirely disappeared. The liquid is about  $2\frac{1}{3}$  gone. I have plenty of the tablets yet. I have not used any of the tablets for regulating the bowels.

If you think advisable I will continue the same treatment. However, I will need more liquid medicine I have enough to do about ten days yet. Now do not send any more C. O. D. but answer my letter and tell me the price and I will send same by money order and then you may forward the medicine.

I wish you would give me particulars concerning 914 as I will take this in the fall.

Sincerely,

H. M. PEFFLEY,

Long Pine, Inyo County, California.

c/E. Robinson Estate. I will not accept any C. O. D. packages—so do not send any”.

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“June 19th, 1913.

Mr. H. M. Paffley,

c/o E. Robinson Estate,

Lone Pine, Calif.

My dear Sir:—

I have your favor of the 16th inst. and have forwarded you by express another supply of the liquid medicine as you requested. I note your request about the C. O. D. shipment; you may send me \$4 upon receipt of this supply.

I am glad that you will be able to come down for

the "914" treatment soon which I think will remove your trouble for all time. My charges are based on the condition of the patient and whether or not it will be necessary to give you the second treatment; my charges are always reasonable and no more than you will be able and willing to pay. I use only the genuine imported Dr. Ehrlich Neosalvarsan which makes a great difference when the price some other Doctors offer is considered.

Trusting that you will get along nicely and with my very best wishes, I am,

GMF/CBT.                      very respectfully yours,"

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(NEW)                      "Clifton, Ariz. 5-31-1913.

Dear Sir:

As I have been reading in the Los Angeles Examiner as to what you can do in regards to middle aged men, I am a man of 39 years and thought that I would see what you could do for me as you say you can cure such as weakened vitality and power of man.

Yours truly,

My address is Box 1436 Clifton, Ariz.

ED. KNIGHT."

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"May 26th, 1913.

Mr. Ed Knight,

Box 1436—Clifton, Arizona.

My dear Sir:—

I have your letter of recent date and have carefully noted your statements. My advertisements speak the entire truth. Mr. Knight, when they state that I have modern scientific methods for building up a weakened



vitality, but as such conditions are usually brought about by complications from other troubles, sometimes symptoms of which the patient is not aware of, it is always necessary for a Physician to get a correct diagnosis by a careful personal examination before he can intelligently prescribe for or hope to remove the conditions contributing to the patients weakness.

Therefore if it is possible for you to come in and see me for a consultation and examination I will be glad to give you my best personal attention and can promise you the very best results. My treatment will only take a few days of your time and will not inconvenience you in any way, nor interfere with any business or pleasure you may wish to attend while in the city.

Trusting to see you soon and with my very best wishes for your health and success, I am,  
very respectfully yours,"

GMF/CBT

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"July 15, 1913.

Mr. Ed. Knight,  
Clifton, Ariz.

My dear Sir:—

May I ask as to your present health and condition, and if it would be at all possible for you to come in and see me.

I have had no reply to my recent letters and would be glad if you would favor me with word as to your intentions, so I may know what to do with my record of your case.

Yours very truly,"

GMF/CBT

"November 14th, 1913.

(Letter returned)

Mr. Ed. Knight,

Box 1436, Clifton, Arizona.

My dear Sir:—

I have not heard from you in some time and would like to know if you have ever received a cure for the trouble you wrote me about. I advised you to come in here for a personal examination so that I could get a correct diagnosis and know how best to take care of you in the shortest possible time. Is it impossible for you to do this at this time. If so if you will write me fully about your case, I shall be glad to advise you fully.

Trusting to hear from you at an early date, and with my very best wishes, I am,

GMF/CBT

Yours very respectfully."

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(Envelope: Addressee to "Mr. Ed. Knight, Box 1436, Clifton, Arizona." Postmarked "Los Angeles, Cal. Nov. 15, 1913 10 A. M." "Returned to writer UNCLAIMED." Original letter also ~~as above~~ returned.)

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"Mr. Dr. Freeman.

You send mir plis one adres of some Germen Dr. E. have eihrt or nien Weeks Gonorrhea (German Tripper) Work here in a Camp and faind not one Doctor, not mi tork. Mei adres is Karl Glaser, Fellows, Kern Trading Oil Co. Camp 21."

(Followed up No. 1-6-13. Spec. 7-15.)

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"May 28th, 1913.

Mr. Karl Glaser,  
Fellows, Cal.

My dear Sir:—

I have your letter this morning and I think that if you could come down here and see me for a few days that I could fix you up all right; it would be necessary for you to appear at my office for a personal examination and then I could probably fix you up with treatment you could take with you back to your work and you would not have to stay here in the city very long; my honest advise would be for you to come down here for a few days treatment at least before your disease gains such headway that it might cause you lots of trouble. I make a specialty of this line of diseases and assure you that I can give you the very best scientific treatment.

I do not believe I know of any German Doctor in your immediate vicinity who I could recommend to handle your case. Trusting that you will find it convenience to come and see me and with my very best wishes, I am

very respectfully yours,"

GMF/CBT

---

"July 15, 1913.

Mr. Karl Glaser,  
Camp 21, Kern Trading Co.,  
Fellows, Calif.

My dear Sir:—

You wrote me sometime ago regarding your trouble, and I have written you twice without any reply.

I would be glad if you would let me know how you have been getting along, and if you are still in need of medical services, I would be glad to have you come in and see me.

With my best wishes, and trusting to hear from you soon, I am,

very respectfully yours,"

GMF/CBT

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Los Angeles, Cal. May 3, 1914.

(PAT)

Dr. G. M. Freeman,  
254 So. Broadway.

Dear Sir:

I received your letter yesterday. I am not well yet and I am not any better than I was up when I came to see you but that is not why I stoped coming to you, the week after I was at your office I lost my job an have not had any money. Yesterday my little boy broke his collar bone an my wife has been sick so you see I have bin up against it. I am working now, an will be in to see you as soon as I can get some money. I would like very much to be cured. I am not living at 425 No. Bonnie Brae any more. I am at 727 E. 28th St. an my telephone is South 2178.

Yours truly,

E. E. MANNEL."

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Mr. Stone: We next offer in evidence the entire correspondence of the office for June, 1913, being original letters received from patients and the copies of the

replies, showing the manner in which the office was conducted.

Mr. Moody: May I ask, Mr. Stone, if you will include in your offer— You say “from the office.” Will you include in your offer from what office, giving the location of the office?

Mr. Stone: Well, I deem the location of the office immaterial on this matter, if they were doing the things you claim. Personally I don’t know, but they were from Los Angeles.

The Court: I would suggest, gentlemen, I would not think the location of the office is material.

Mr. Moody: The only reason I had in making that suggestion was that this witness testified he severed his connection in the spring of 1913 and started an office of his own, and manifestly what he did by himself would have nothing to do with the conspiracy.

The Court: Of course, that is right, too.

Mr. Moody: That is the reason I wanted him to say whether it was from his own office, or the office of the other parties.

Mr. Stone: We next offer in evidence the correspondence—

The Court: Well, get the record straight.

Mr. Stone: That is No. 2, for June, 1913.

The Court: Do you want this witness to testify as to this correspondence?

Q. By Mr. Stone: Examine that, doctor, for June, 1913, and see if that is correspondence received and copies of replies from the office.

(Testimony of Gideon M. Freeman.)

Q. By the Court: You are familiar with it, are you, doctor?

A. Yes, absolutely.

The Court: All right, then. Let it be marked.

Mr. Moody: The same objections.

The Court: The same objections and the same ruling. Let it be marked for identification, those two documents, Exhibit 1 for Identification and Exhibit 2 for Identification.

Mr. Stone: Exception to the ruling. Ex. 12.

Q. By Mr. Stone: I will ask you to examine for July, and ask you if this is correspondence of the office—that is, I am asking you now if it is correspondence from people with whom you were actually dealing and treating in a business way?

A. Yes, sir.

Mr. Stone: Then the correspondence for July is offered in evidence, if Your Honor please, as Defendant's Exhibit No. 3.

The Court: The same objection?

Mr. Moody: The same objections.

The Court: The objections will be sustained.

Mr. Stone: Exception. Ex. 13.

The Court: It will be marked Defendants' Exhibit 3 for Identification.

Mr. Stone: I next show you an exhibit of letters and ask you to state if those are the original letters received and copies of replies for the month of August?

A. August, yes, sir.

Mr. Stone: We offer these as Exhibit No. 4.

Mr. Moody: The same objections.



(Testimony of Gideon M. Freeman.)

The Court: The same ruling.

Mr. Stone: Exception. Ex. 14.

The Court: Mr. Stone, I suggest, if these are all the same, does not one exhibit raise the question?

Mr. Stone: I would rather have them all in, Your Honor, to save any question about it.

The Court: All right, go ahead.

Q. By Mr. Stone: I show you correspondence purporting to be for September, 1913, and ask you to state if that is the correspondence of the office. Is that correct, doctor?

A. That is correct.

Mr. Stone: We offer this as Defendant's Exhibit No. 5.

Mr. Moody: The same objection.

The Court: The same ruling; objection sustained.

Mr. Stone: Exception. Ex. 15.

Q. By Mr. Stone: I show you correspondence for October and ask you to state if that is the correspondence of the office relating to the treatment of patients, that you wrote to?

A. Yes, sir.

Mr. Stone: I offer this in evidence as Defendant's Exhibit No. 6.

Mr. Moody: The same objection.

The Court: Sustained.

Mr. Stone: Exception. Ex. 16.

Q. By Mr. Stone: I will ask you to examine for November and state whether or not that is correspondence for that month.

A. Yes, sir.

(Testimony of Gideon M. Freeman.)

Mr. Stone: We offer this as Defendant's Exhibit No. 7.

Mr. Moody: The same objections.

The Court: Sustained.

Mr. Stone: Exception. Ex. 17.

Q. By Mr. Stone: For December, and ask you to examine that and state if that is the correspondence for that month; is it?

A. Yes, sir.

Mr. Stone: We offer this as Defendant's Exhibit No. 8.

Mr. Moody: I object to this last one.

The Court: Sustained.

Mr. Stone: Exception. Ex. 18.

The Court: Objected to on the same grounds?

Mr. Moody: The same grounds, the same objections.

(The letters included in Defendant's Exhibits Nos. 2 to 8, inclusive, are of the same tenor and effect as those in Defendant's Exhibit No. 1.)

### **Testimony of Dr. Gideon M. Freeman, Continued.**

The rubber stamp spoken of was made when we were moving from the corner of Third and Spring streets to 327½ South Spring street, so that he could write a letter to each patient that had been on our books, or each patient who had written to us, a notice of removal, and the stamp was made to keep me from signing all those letters.

I never at any time authorized Mr. Sims or anyone else to sign that to a letter relating to the treatment

(Testimony of Gideon M. Freeman.)

of a patient and I never knew of its being used other than to send out removal notices. The Wasserman test was used by us. I would send the blood to the Wasserman laboratory to be tested, which is customary among physicians I think. I had this test made in a great number of cases. I never knew anything about this bottled material which has been here in evidence and never knew it came to the office, nor never knew of any report being made on it. Dr. Holsman was not at the office at the time of these decoy letters or a little time before or afterwards, that is, at no time except July and December of 1912, that I know of.

Cross-Examination.

I am a graduate from the medical department of Leland Stanford University in 1903. I am thirty-six and a half years old now and was born in 1880. I did some advertising prior to the time we moved to 327½ South Spring street. I never did any advertising prior to the time I went to work for Dr. Joslyn at 305½ South Spring street and it was the same people I worked for continuously, except there were additions to the firm. While I was at Fifth and Spring streets working for Dr. Joslyn he would send me an ad and I would change it over to suit the local conditions. I was there for about a year more or less and had the advertisements put in the paper. I had the advertisement that was introduced as United States Exhibit No. 2 placed in the paper. At the time this ad was being circulated the office was being run under my name. My father was a physician and I was in his office from the time I was twelve years old and helped treat a

(Testimony of Gideon M. Freeman.)

number of cases from time to time and also had experience when going to college and that gives a little over *twenty-three* or *twenty-four* years' experience. My father practiced the same line of specialty. My father allowed me to assist in the treatment of syphilis and gonorrhea at the age of twelve years. I received a salary and a commission upon the business transacted at the office here at Los Angeles and had letter-heads such as are found in these exhibits made and am thoroughly familiar with the reading on the letter-heads. I never intended to take any cases by mail. The reason I had put in the ad, "write your full symptoms, if you are unable to call," is simply because I wanted to get in touch with the patients the same as any business firm would do. I do not call that taking cases by mail. I did not intend to treat them by mail. If the patient confided enough in me to write his full symptoms and describe his condition, if he came to Los Angeles he would come to me before he went to someone else. I did not intend to take any action upon the symptoms described in the letter. By consultation by mail I meant I would advise the patient how to take care of himself until he called at the office. I have had no interest in the business at 327½ South Spring street and had no interest in the business conducted under my name up to the time I moved to the office at Third and Broadway. I can cure venereal warts by one treatment. There are a number of different things that it only takes one treatment to cure. I have cured syphilis in one treatment. I met one today I treated four years ago by the "606" treatment and he has taken no treat-

(Testimony of Gideon M. Freeman.)

ment since and has had four Wasserman tests made, one each year, and every one is absolutely negative, and he is in a perfectly healthy condition at the present time. This was done by one treatment of "606" and no follow up treatment. I would not say I have cured gonorrhea in one treatment, but I have cured varicocele in one treatment by an operation.

This rubber stamp was made, I think, about six weeks before we moved from 305½ South Spring street to 327½, that would be sometime around in June. I paid no attention to the rubber stamp from the time that it was made until I left the office at 327½ S. Spring, a little over a year. I then looked for it and could not find it.

I can cure varicocele without pain or knife, in some cases it can be cured by electricity. Varicocele is enlarged veins in the scrotum; and there is a method of tying up these veins. The other method is an operation in which scissors are used. I have performed fifteen hundred or two thousand of such operations and never have had any complaints, except in three or four instances. I was paid a regular salary and a commission on all the business alone, and was thoroughly familiar with all the business that was done in the office and all of the money taken in.

Mr. Simms was the manager in the office and the letterheads were free to anybody in the office. Mr. Sims was the general manager of the office; he did all except treat the patients; he received all the mail and wrote all the letters and took in the money, taking care of it, and attended to the drugs. I do not know what



(Testimony of Gideon M. Freeman.)

become of Sims, he ran away before the indictment was out. Mr. Sims did all of the typewriting, except for a short time there was a stenographer employed to assist on those letters, and attend to Dr. Giles' personal correspondence, and Miss Wilhelm was this stenographer. Dr. Joslyn is dead.

### **C. E. Webster, Recalled.**

Whereupon he was asked by counsel for the defendants if a detective for the medical board did not assist him and bring to his knowledge the facts upon which this prosecution was brought and assisted him in getting the evidence (McDonnell, a witness having been subpoenaed by the government, but not placed on the witness stand, and being a detective for the state medical board) and the court sustained objection to this question, to which the defendants and each of them duly excepted. Ex. 19.

Thereupon the government and the defendant rested the case and the defendant requested the court to instruct the jury as follows:

#### **I.**

"I instruct you in this case, that the gist of the allegations against the defendants is a conspiracy and the doing of an act or acts, to-wit, the mailing of letters set out in the indictment, in furtherance of the conspiracy.

You cannot find the defendants or either of them guilty of a conspiracy in the case, even though you believe such has existed as charged in the indictment, unless you further believe from the evidence, beyond a reasonable doubt, that the defendants or one of them



mailed, or caused to be mailed the letters, or one of the letters set out in the indictment, in furtherance of the alleged conspiracy; because a conspiracy under the United States laws is not a crime, though it is an agreement or understanding to do an unlawful act or acts, unless the overt act or one of them alleged in the indictment is actually committed by the defendant or one of the defendants after the conspiracy is formed and in furtherance thereof, and hence, unless you believe from the evidence in this case, beyond all reasonable doubt, that the defendants had entered into a conspiracy, as alleged in the indictment, and further, that the defendants, or one of them, in furtherance of said conspiracy actually mailed, or actually caused to be mailed, the letters, or one of them, set out in the indictment, then it would be your duty to acquit the defendants."

## II.

"I instruct you, that unless you believe from the evidence, beyond a reasonable doubt, that the defendants conspired together as alleged in the indictment, in devising a scheme to defraud, and knowingly used the mails in furtherance thereof, then no statement or act of either defendant should be considered against any other defendant, or defendants in determining whether or not there was a conspiracy as charged in the indictment. That is to say, before the act or acts of any defendant can be used or considered against another defendant or defendants, it must first appear beyond a reasonable doubt that the conspiracy existed, as alleged in the indictment."

## III.

"I instruct you, that under the law what is known as decoy evidence, such as the sending of the two letters set out in the indictment, by the postoffice inspector, for the purpose of procuring an answer from the defendant, or one of them, may be used for the purpose of apprehending or ascertaining whether a person is engaged in the commission of a criminal offense against the laws of the United States. But in this charge of conspiracy, unless you believe from the evidence beyond a reasonable doubt, that at the time the said decoy letter or letters were mailed to the defendants or one of the defendants, the said defendants were engaged in the criminal practice charged in the indictment; or unless the defendants had conspired together, as alleged in the indictment at the time of or before the sending said letter or letters by the postoffice inspector, then the evidence of said decoy letters is not alone sufficient upon which to base the verdict of guilty, because a government official cannot conspire with another person to violate the laws of the United States and it is against public policy for a government official to suggest or originate a conspiracy or any other crime, and hence, if you believe from the evidence in this case that a conspiracy as alleged, was suggested and planned by the postoffice inspector, or inspectors, and the defendants were not actually in said conspiracy as alleged, except as shown by a response to the letters of said postoffice inspector, then it will be your duty to acquit the defendants."

## IV.

"I instruct you that it is against the policy of the laws of the United States to sustain a prosecution or conviction upon an indictment charging a conspiracy against the laws of the United States if the conspiracy or plan originated solely in the mind or minds of the government officials, and hence, unless you believe from the evidence in this case, beyond a reasonable doubt, that the defendants at the time alleged in the indictment had formed a conspiracy as therein alleged, without the suggestion and origination of the same by the postoffice inspector, or inspectors, and independent thereof, then it will be your duty to acquit the defendants."

## V.

"I instruct you that ~~while~~ it may be proper under the laws of the United States for a government officer to use decoy methods in apprehending crime, that is, to ascertain whether or not a person, or persons are actually engaged in an offense against the laws of the United States, nevertheless, the evidence, if any, or the facts or circumstances, if any, procured by said decoy method can only be considered by you in determining the question as to whether or not the defendants had actually entered into the conspiracy as charged in the indictment, and any fact, or facts, or circumstances acquired by said decoy letters are not of themselves sufficient to sustain a verdict of guilty unless you believe from the evidence beyond a reasonable doubt that the defendants had, independent of said decoy letters, entered into the conspiracy at the time and place as alleged in the indictment."

## VI.

"I instruct you that unless you believe from the evidence beyond a reasonable doubt in this case, that the defendants or one of them actually mailed or actually caused to be mailed the letters or one of them, set out in the indictment, then it will be your duty to acquit the defendants, because unless the defendants, or one of them knew of, or in some way authorized the mailing of the letter, or letters set out in the indictment, then the defendants would not be guilty, regardless of whether or not you may believe there was, or was not, a conspiracy between them."

## VII.

"I instruct you that a person cannot, as the agent or employee of another in any business, bind his employer in a criminal proceeding or charge, and his employer is not responsible for the acts of the employee in committing a criminal offense, unless you believe from the evidence beyond a reasonable doubt, that the employer in some way knew of the act or acts of the employee, alleged to be criminal, or in some way authorized the act or acts of the employee; and hence, unless you believe from the evidence, beyond a reasonable doubt, that the defendants in some way knew of, or intentionally authorized the mailing of the letter or letters set out in the indictment, then it will be your duty to acquit the defendants."

## VIII.

"I instruct you that before you can find a verdict of guilty against the defendants in this case, that you must find that all of the following conditions exist:

(a) That there was a conspiracy between them, as alleged in the indictment.

(b) That the object of that conspiracy was that the said defendants should devise a scheme or plan to defraud the persons, as alleged in the indictment, and

(c) That said defendants intended the use of the United States mails in carrying out or in the furthering of the object of such conspiracy.

And it is necessary before you are authorized to find a verdict of guilty in this case, that you believe all of the above elements to exist in this case. It is not sufficient that one of them exist, but they all must have existed, as alleged in the indictment, and to your satisfaction, beyond a reasonable doubt, before you are authorized to convict the defendants."

#### IX.

"I instruct you that the principal or master is not criminally liable for the acts of his agent or servant even though done in the general course of his employment, unless such acts of the agent or servant are authorized or consented to by the principal or master and that no authority to do a criminal act will be presumed. Hence, unless you believe from the evidence in this case, beyond a reasonable doubt, that the defendant, Holsman, actually mailed the letter or letters set out in the indictment, or caused the same to be mailed, or in some way knowingly authorized or acquiesced in the mailing thereof in furtherance of the scheme as charged in the indictment, then it will be your duty to acquit him, even though you may believe from the evidence that the defendant Sims was employed by the defendants to care for the correspondence and answer-

ing letters, even though you believe that the answering of letters by the defendant Sims was in the course of his employment."

X.

"I instruct you that under this charge of conspiracy, before you are authorized to convict the defendants, or either of them, you must believe beyond a reasonable doubt, that they had an understanding or agreement between or among themselves to defraud any and all persons who could be induced to write to them as charged in the indictment. And further, as a part of said conspiracy they intended the use of the mails in furtherance of said conspiracy.

The first question for you to consider is, was there a conspiracy? That is to say, did the defendants conspire or agree together and between or among themselves to commit the offense against the United States, as charged in the indictment? And, in the next place, did they enter into an agreement, or plan by which it was agreed or understood between or among themselves that they would defraud any and all persons, as charged in the indictment? And, in the next place, did they knowingly or intentionally mail, or cause to be mailed either of the letters charged in the indictment?

Before you are authorized to convict the defendants or either of them, you must believe beyond a reasonable doubt, that they intended to defraud in the manner and by the use of the means set out in the indictment.

If the defendants, acting as specialists in the treatment of diseases acted in good faith and honestly believed in the representations which they made, if any, and did not by any of their said acts, as charged in the



indictment, intend to defraud any person or persons, then it is your duty to acquit the defendants."

## XI.

"I instruct you that though you may believe from the evidence that the defendant Holsman was financially interested in the office conducted at Los Angeles at the time alleged in the indictment, yet unless you believe from the evidence beyond a reasonable doubt, that he knew of or consented to or in some way authorized the mailing of the letters or one of them set out in the indictment, then you cannot convict him, and it will be your duty to find a verdict of not guilty as to him."

To the refusal to give the foregoing instructions and each of them the defendants and each of them duly excepted. Ex. 20-30 inclusive.

Thereupon the court of its own motion and over the objections of the defendants and each of them instructed the jury as follows:

## I.

"Gentlemen of the Jury:

The indictment in this case was brought under sections 37 and 215 of the United States Criminal Code, the former section being, in substance, as follows:

"If two or more persons conspire \* \* \* to commit an offense against the United States \* \* \* and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be "punished as prescribed in said section."

## II.

The offense which it is alleged the defendants con-

spired to commit was a violation of said section 215, which is, in substance, as follows:

“Whoever having devised, or intending to devise, any scheme or artifice to defraud \* \* \* shall, for the purpose of executing said scheme or artifice, or attempting so to do, place or cause to be placed, any letter \* \* \* in any postoffice \* \* \* of the United States \* \* \* to be sent or delivered by the postoffice establishment of the United States, shall be punished” as in said section prescribed.

### III.

The indictment in this case is against Charles K. Holsman, Henry L. Giles, Gideon M. Freeman, Ambrose C. Sims and Otto C. Joslin (since deceased). Only two of the defendants indicted, namely—Charles K. Holsman and Gideon M. Freeman, are now on trial. There being five persons named in the conspiracy, it is not necessary for the government to show that both Holsman and Freeman are guilty. That is to say, it is not necessary to show that they conspired together. It is sufficient to show that they or either of them conspired with any of the other defendants. It is necessary, of course, that two persons be in a conspiracy. Therefore, you can convict either one or both of the defendants on trial, and the instructions hereafter, when they refer to and speak of defendants, refer to either of the defendants. Before you can convict either of the defendants it must be shown that he conspired with one of the other defendants named in the indictment.

### IV.

The charge against the defendants on trial, compre-

hensively stated, is that they conspired together or with one of the other persons named in the indictment, first to devise a scheme to defraud, and that they did devise such scheme to defraud as set out in the indictment, and, second, that they likewise conspired to place or cause to be placed in the postoffice of the United States, at the city of Los Angeles, California, letters addressed to persons intended to be so defrauded, to be sent and delivered to said persons by the postoffice establishment of the United States for the purpose of executing said scheme or attempting so to do, and, third, that the defendants for the purpose of effecting and executing said scheme, or attempting so to do, placed or caused to be placed in said postoffice, one of the letters set forth in the indictment. Said conspiracy and scheme are fully set forth and described in the indictment which has been read to you and will, if you desire it, be with you in the jury room; therefore, it need not be restated here.

The defendants on trial, of course, cannot be convicted except upon proof of the particular charge stated in the indictment, and the evidence in the case should satisfy your minds that a scheme to defraud was devised as set forth, and that part of the scheme was to use the mails as described in the indictment.

#### V.

You will observe that the offense charged against the defendants is not that of using the mails, in execution of a fraudulent scheme, but of conspiracy to so use the mails.

## VI.

You will be called upon to consider, among others, the following questions:

Was there such a conspiracy, as alleged in the indictment? And did the defendants for the purpose of effecting the objects of the conspiracy, place or cause to be placed in said postoffice, to be sent and delivered by mail, the letters described in the indictment, or either of them?

If the evidence satisfies you beyond a reasonable doubt of the existence of said conspiracy, and that defendants, for the purpose of effecting the objects of said conspiracy, placed or caused to be placed in said postoffice, to be sent and delivered by mail, said letters, or either of them, you will find the defendants guilty as charged in the indictment. If, however, the evidence fails to so satisfy you of the existence of said conspiracy, or that defendants, for the purpose of effecting the objects of said conspiracy, placed or caused to be placed either of said letters in said postoffice, to be sent and delivered by mail, you will find defendants not guilty.

## VII.

The court further instructs you that a conspiracy is a combination between two or more persons to do a criminal or unlawful act, or a lawful act by criminal or unlawful means.

From this definition of conspiracy it follows, of course, that there can be no conspiracy where one individual acts by or for himself only.

A mere mental purpose cannot justify a conviction

of conspiracy. A common design is of the essence of the charge

A person, therefore, in order to become a party to a conspiracy, must combine with someone else to effect the objects of the conspiracy by the means agreed upon.

### VIII.

The court further instructs you that, to constitute a conspiracy it is not necessary that there should be an explicit or formal agreement between the alleged conspirators.

Though the common design is of the essence of the charge it is not necessary to prove that the defendants came together and actually agreed in terms to have that design, and to pursue it by common means. If it be proved that the defendants pursued by their acts the same object, often by the same means, one performing one part and another another part of the same so as to complete it, with a view of attaining the same object, the jury will be justified in the conclusion that they were engaged in a conspiracy to effect that object.

The evidence in proof of a conspiracy may be, and from the nature of the case generally will be, circumstantial.

The court, however, further instructs you that, where circumstantial evidence is relied upon to establish the conspiracy, or any other fact, it is not only necessary that all the circumstances concur to show the existence of the conspiracy, or other fact sought to be proved, but such circumstantial evidence must be inconsistent with any other rational conclusion.

If the evidence can be reconciled either with the theory of innocence or with guilt, the law requires that



the defendant be given the benefit of the doubt, and that the theory of innocence be adopted.

### IX.

You are further instructed, with reference to the proof of mailing the letters set up in the indictment, that it is not essential to the commission of the offense charged, that such letters be deposited in the mail by the defendants themselves, or even by another acting under their express direction, because a person is equally responsible for the mailing of any particular letter if it is deposited in the postoffice as a natural or probable consequence of any act intentionally done by such person with knowledge at the time thereof that such act will naturally and probably result in the mailing of such letter.

You are further instructed that a person is responsible for the mailing of any letter if he sets in operation and makes use of any agency which, as he knows at the time, would according to its established and regular course, carry such letter through the mail to the person or persons to whose attention he designed such letter should be brought.

### X.

The court further instructs you that, while the acts or declarations of a co-conspirator cannot prove the existence of the conspiracy itself, any act or declaration done or made by one of the conspirators during the existence and in furtherance of the unlawful combination when proven, is not only evidence against him, but is evidence against the other conspirator who, if the combination be proved, is as much responsible for such act or declaration as if done or made by himself.



You must not, however, permit yourselves to use against either defendant, anything said or done outside the presence of such defendant, unless you believe from the evidence, beyond a reasonable doubt, that at the time the things were said or done a conspiracy existed between the party saying or doing the things and the defendant to be effected thereby. In such a case it is only those things said or done in furtherance of the objects of the conspiracy which are chargeable against the other member or members of such conspiracy.

#### XI.

You are further instructed that the official postmark of the Los Angeles postoffice on the envelope enclosing one of the letters set forth in the indictment, and which has been introduced in evidence, is *prima facie* proof that said letter was mailed at said postoffice.

#### XII.

It is lawful that what is known as decoy letters, such as the letters sent by the postoffice inspector in this case for the purpose of procuring an answer from the defendants, or one of them, may be used for the purpose of ascertaining whether the person addressed is engaged in the commission of a criminal offense against the laws of the United States. If at the time the said decoy letter or letters were mailed to the defendants, or one of the defendants, the said defendants were engaged in the criminal practice charged in the indictment, and the said defendants in response to said alleged decoy letters, mailed one or both of the letters set forth in the indictment in answer to such decoy letters, or either of them, in order to execute or carry out such conspiracy, or in an attempt so to do, then

the use of such decoy letters and the answers thereto can lawfully be received as evidence to prove said conspiracy.

A government official cannot conspire with another person to violate the laws of the United States for the purpose of getting such person convicted of a crime. The conspiracy with which the defendants are charged must be proven to exist independently of any inducement to enter therein by any government official. In other words, if the conspiracy existed, it does not matter what the government officers did in order to procure evidence to prove it.

### XIII.

It is admitted by the government in this case that each of the letters set out in the indictment and alleged therein to be the overt acts pursuant to the accomplishment of the purpose of the conspiracy alleged in the indictment, were received by the addressees therein respectively in reply to letters respectively addressed to the defendant G. M. Freeman, M. D., either by a United States postal inspector, or by another procured by the inspector so to do, and that the letters addressed to said defendant were addressed to him for the purpose of giving to the government information as to whether or not the defendants charged in the indictment were engaged in an unlawful use of the mails. These letters so addressed to said defendants may be properly designated as decoy letters. You are instructed that the fact that the letters alleged in the indictment were in reply to such decoy letters is no defense in this action. You are further instructed that a government officer suspecting that a person or per-

sons may be engaged in a business in violation of the laws of the United States, has a right to seek information under an assumed name, directly from such person or persons so suspected. That if such suspected person or persons respond to such inquiry for such information, and by so responding violates a law of the United States by using the mails to convey such information, which use of the mails is prohibited by law, then such person or persons so using the mails cannot, when indicted for that offense, set up that he would not have violated the law if the inquiry had not been made of him by the government official or through the procurement of the government official.

#### XIX.

The court further instructs you that you are the sole judges of the facts and credibility of witnesses, and, in passing upon the credibility of witnesses you may consider, together with all the evidence in the case, their intelligence or lack thereof; their relation to the controversy and to the parties; the interest, if any, they have in the result of the trial; their prejudices and motives; their hopes and fears; their bias or impartiality; the reasonableness or otherwise of the statements they make—together with their manner upon the witness stand, and should give to their testimony such weight as you believe it entitled to receive.

If a witness is shown knowingly to have testified falsely on the trial touching any material matter here involved, the jury may distrust his testimony in other respects, and are at liberty to reject the whole or any part of it.

## XX.

The court further instructs you that the law permits a defendant, at his own request, to testify in his own behalf.

The defendant Freeman has availed himself of this privilege, and his testimony is to be treated like the testimony of any other witness—that is, it is for you to say, remembering his testimony, his demeanor on the witness stand, his interest in the result of the trial, together with all the evidence in the case, whether or not he has told the truth.

## XXI.

You are instructed that you are not to consider the failure of any defendant to take the witness stand as having any bearing whatever on the question of his guilt or innocence, and you should not allow the fact that any defendant has failed to testify in his own behalf to influence you in the slightest degree.

## XXII.

I instruct you that it is not a violation of the laws of the United States for a physician to advertise in his profession or to advertise his method of treatment. You are not to be influenced and must not be influenced to any extent in the consideration of this case by prejudice, if any should come into your minds, against a professional man advertising.

## XXIII.

The court further instructs you that neither the finding of an indictment, nor any allegation thereof, raises any presumption whatever of the defendant's guilt, but the burden of proof is upon the government, and that the law presumes the defendant innocent until proven

guilty beyond a reasonable doubt, and that this rule applies to every material element of the offense charged. The court further instructs you that a reasonable doubt is a doubt which is reasonable in view of all the evidence, and if, after an impartial comparison and consideration of all the evidence, you can candidly say that you are not satisfied of the defendant's guilt, you have a reasonable doubt; but if, after such impartial comparison and consideration of all the evidence, you can truthfully say that you have an abiding conviction of the defendant's guilt, such as you would be willing to act upon in the more weighty and important matters relating to your own affairs, you have no reasonable doubt.

#### XXIV.

You are instructed that a defendant in a criminal case is entitled to the individual opinion of each member of the jury, and that no member of the jury should vote for a conviction of such defendant because of the opinion of the other members of the jury, so long as he has a reasonable doubt as to the guilt of such defendant, but this does not mean that you should not consult together and try and agree upon a verdict.

To the giving of the aforesaid instructions and each of them the defendants and each of them duly excepted. Ex. 31-54 inclusive.

Thereafter, to wit, on the first day of December, 1916, the jury in the above entitled cause returned into open court the following verdict:

*"In the District Court of the United States, in and for the Southern District of California, Southern Division.*

No. 903 Crim.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHAS. K. HOLSMAN and GIDEON M. FREEMAN,

Defendants.

We, the jury in the above entitled cause, find the defendant, Chas. K. Holsman, guilty as charged in the indictment, and the defendant, Gideon M. Freeman, guilty as charged in the indictment, with recommendation of leniency for both.

Los Angeles, California, December 1, 1916.

C. T. BRADFORD,

Foreman."

*In the District Court of the United States, Southern District of California, Southern Division.*

Case No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON M. FREEMAN,

Defendants.

STIPULATION.

It is hereby stipulated that the foregoing constitutes a true and correct bill of exceptions of the above en-



titled cause and that the same be settled and signed as such by the judge who tried the same.

Dated this March 15th, 1917.

ALBERT SCHOONOVER,  
United States Attorney;  
By W. F. Palmer,  
Assistant U. S. Attorney.

DUKE STONE,  
Attorney for Charles K. Holsman.  
MACK MEADER,  
Attorney for Gideon M. Freeman.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

Case No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON M. FREEMAN,

Defendants.

CERTIFICATE ON STIPULATION.

The foregoing bill of exceptions containing all the evidence offered and introduced at the trial of said cause necessary to a review of said cause on this appeal in accordance with the stipulation of counsel for plaintiff and defendant; and the instruction of the court to the jury with the defendants' exceptions thereto and the offered instructions on the part of the defendants and each of them refused and the exceptions thereto, and all of the proceedings at the trial of said cause, includ-

ing the verdict of the jury, and is a true and correct bill of exceptions and is hereby settled and allowed and ordered to be filed as such.

Dated this March 16th, 1917.

OSCAR A. TRIPPET,

Judge.

[Endorsed]: Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman and Gideon M. Freeman, defendants. Bill of exceptions on behalf of defendants Charles K. Holsman and Gideon M. Freeman. Filed Mar. 16, 1917, at 10 min. past 10 o'clock a. m. Wm. M. Van Dyke, clerk; Murray C. White, deputy. Duke Stone and Mack Meader, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for defendants.

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*In the District Court of the United States, Southern  
District of California, Southern Division.*

Case No. 903 Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON M. FREEMAN,

Defendants.

### **Order Extending Time in Which to Prepare and Serve Proposed Bill of Exceptions.**

On this January 12, 1917, the same being within ten days from the date of judgment and sentence in the

above entitled cause, on application of attorneys for the defendants and no previous extension having been granted and good cause appearing therefor: It is ordered that the defendants may have to and including the 12th day of March, 1917, within which to prepare and serve their proposed bill of exceptions to be used in this cause on writ of error; and the time for the said preparing and serving of the same is hereby extended to and including said date.

Dated this January 12th, 1917.

OSCAR A. TRIPPET,  
United States District Judge.

We consent to this extension.

W. F. PALMER,  
Asst. U. S. Atty.

[Endorsed]: Original. Case No. 903 Criminal. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman and Gideon M. Freeman, defendants. Order extending time in which to prepare and serve proposed bill of exceptions. Filed Jan. 12, 1917, at 15 min. past 3 o'clock p. m. Wm. M. Van Dyke, clerk; Murray C. White, deputy. Duke Stone and Mack Meader, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for defendants.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

Case No. 903 Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON M. FREE-  
MAN,

Defendants.

**Petition for Writ of Error.**

Your petitioners, Charles K. Holsman and Gideon M. Freeman, defendants in the above-entitled cause, bring this petition for a writ of error to the District Court of the United States, in and for the Southern District of California, Southern Division, and in that behalf your petitioners say:

That on the 5th day of January, 1917, there was made, given, rendered and entered in the above-entitled court and cause judgment against your petitioners wherein and whereby your petitioner, Charles K. Holsman, was sentenced to be imprisoned for three months in the county jail of the county of Los Angeles, California, and to pay a fine of fifteen hundred (\$1500.00) dollars, and imprisoned until said fine is paid, and your petitioner, Gideon M. Freeman, was sentenced to pay a fine of fifteen hundred (\$1500.00) dollars, and imprisoned until said fine is paid in the county jail of Los Angeles county, California; and your petitioners say that they are and each of them are advised by counsel, and they and each of them aver that there

was and is manifest error in the records and proceedings had in such cause and in the making, giving, rendition and entry of such judgment and sentence, to the great injury and damage of your petitioners, all of which errors will be more fully made to appear by an examination of the said record, and by an examination of the bill of exceptions by your petitioners to be tendered and filed, and in the assignment of errors hereinafter set out, and to that end thereafter that the said judgment, sentence and proceedings may be reviewed by the United States Circuit Court of Appeals, Ninth Circuit, your petitioners now pray that a writ of error may be issued directed therefrom to the said District Court of the United States for the Southern District of California, Southern Division, returnable according to law and the practice of the court, and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignment of errors and all proceedings had in said cause that the same may be removed into the United States Circuit Court of Appeals for the Ninth Circuit to the end that the error, if any has happened, may be duly corrected and full and speedy justice done your petitioners.

And your petitioners now make the assignment of errors filed herewith upon which they will rely and which will be made to appear by return of said record in obedience to said writ.

Wherefore, your petitioners pray the issuance of the writ as herein prayed, and pray that the assignment of errors filed herewith may be considered as their assignment of errors upon the writ, and that the judgment rendered in this cause may be reversed and held

for naught and that said cause be remanded for further proceedings and that they be awarded a supersedeas upon said judgment, and all necessary processes, including bail.

DUKE STONE and  
MACK MEADER,

Attorneys for Defendants Charles K. Holsman and  
Gideon M. Freeman.

[Endorsed]: Case No. 903 Criminal. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman and Gideon M. Freeman, defendants. Petition for writ of error. Filed Jan. 10, 1917. Wm. M. Van Dyke, clerk; by Chas. N. Williams, deputy clerk. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for defendants.

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*In the District Court of the United States, Southern  
District of California, Southern Division.*

Case No. 903 Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON M. FREEMAN,

Defendants.

### **Assignment of Errors.**

Charles K. Holsman and Gideon M. Freeman, defendants in the above entitled cause, and plaintiffs in error herein having petitioned for an order from said



court permitting them to procure a writ of error from this court directed to the United States Circuit Court of Appeals, Ninth Circuit, from the judgment and sentence made and entered in said cause against said plaintiffs in error, and petitioners herein, now make and file with their said petition the following assignment of errors herein, which they aver occurred on the trial of said cause, and upon which they will rely for a reversal of said judgment and sentence upon the said writ, and which said errors and each and every one of them are to the great detriment, injury and prejudice of the said defendants and in violation of the rights conferred upon them by law; and they say that in the record and proceedings in the above-entitled cause upon the hearing and determination thereof in the District Court of the United States for the Southern District of California, Southern Division, there is manifest error in this, to-wit:

I.

The court erred in admitting in evidence against the defendant Charles K. Holsman over said defendant's objection the Government's Exhibit Number (1-a), the same being an affidavit of Gideon M. Freeman, dated September 8th, 1911, and which in substance stated that the defendant Charles K. Holsman was practicing medicine at 305½ South Spring street on said date, to which admission said defendant, Charles K. Holsman, duly excepted.

II.

The court erred in admitting in evidence said affidavit against the defendant, Gideon M. Freeman, to the admission of which said defendant duly excepted.

## III.

The court erred in not admitting in evidence Defendant's Exhibits Number (1), (2), (3), (4), (5), (6), (7) and (8), for which the proper foundation had been duly laid by the defendant, Gideon M. Freeman, while on the witness stand, and which exhibits consisted of the correspondence from the office of the defendants from May 1st, 1913, to January 1st, 1914, and being the copies of the letters sent out from the office of the defendants over said period of time to various patients of the defendants and the answers of said patients or persons seeking treatment from said defendants, and being all the correspondence of said defendants or either of them covering said period of time and obtainable with reference to the conduct of their business as far as the same related to the use of the mails, which said letters show the character and conduct of defendant's business relating to the use of the mails and to the refusal to admit said letters and each of them said defendants and each of them duly excepted.

## IV.

The court erred in admitting in evidence over the objection of the defendants and each of them, Government's Exhibits Number        and       , the same being two large bound volumes consisting of the complete files of the Los Angeles Examiner and purporting to contain certain advertisements of the defendant, Gideon M. Freeman, and which said publications were for the months of July and August, 1912, to which admission the defendants and each of them duly excepted.

## V.

The court erred in refusing to instruct the jury as requested on behalf of said defendants, and being in words as follows:

## I.

"I instruct you in this case, that the gist of the allegations against the defendants is a conspiracy and the doing of an act or acts, to-wit, the mailing of letters set out in the indictment, in furtherance of the conspiracy.

You cannot find the defendants or either of them guilty of a conspiracy in this case, even though you believe such has existed as charged in the indictment, unless you further believe from the evidence, beyond a reasonable doubt, that the defendants or one of them mailed, or caused to be mailed the letters, or one of the letters set out in the indictment, in furtherance of the alleged conspiracy; because a conspiracy under the United States laws is not a crime, though it is an agreement or understanding to do an unlawful act or acts, unless the overt act or one of them alleged in the indictment is actually committed by the defendants or one of the defendants after the conspiracy is formed and in furtherance thereof, and hence, unless you believe from the evidence in this case, beyond all reasonable doubt, that the defendants had entered into a conspiracy, as alleged in the indictment, and further, that the defendants, or one of them, in furtherance of said conspiracy actually mailed, or actually caused to be mailed, the letters, or one of them, set out in the indictment, then it would be your duty to acquit the defendants."

## II.

"I instruct you, that unless you believe from the evidence, beyond a reasonable doubt, that the defendants conspired together as alleged in the indictment, in devising a scheme to defraud, and knowingly used the mails in furtherance thereof, then no statement or act of either defendant should be considered against any other defendant, or defendants in determining whether or not there was a conspiracy as charged in the indictment. That is to say, before the act or acts of any defendant can be used or considered against another defendant or defendants, it must first appear beyond a reasonable doubt that the conspiracy existed, as alleged in the indictment."

## III.

"I instruct you, that under the law what is known as decoy evidence, such as the sending of the two letters set out in the indictment, by the postoffice inspector, for the purpose of procuring an answer from the defendant, or one of them, may be used for the purpose of apprehending or ascertaining whether a person is engaged in the commission of a criminal offense against the laws of the United States. But in this charge of conspiracy, unless you believe from the evidence beyond a reasonable doubt, that at the time the said decoy letter or letters were mailed to the defendants or one of the defendants, the said defendants were engaged in the criminal practice charged in the indictment: or unless the defendants had conspired together, as alleged in the indictment at the time of or before the sending said letter or letters by the postoffice inspector, then the evidence of said decoy letters is not alone sufficient

upon which to base the verdict of guilty, because a government official cannot conspire with another person to violate the laws of the United States and it is against public policy for a government official to suggest or originate a conspiracy or any other crime, and hence, if you believe from the evidence in this case that a conspiracy as alleged, was suggested and planned by the postoffice inspector, or inspectors, and the defendants were not actually in said conspiracy as alleged, except as shown by a response to the letters of said postoffice inspector, then it will be your duty to acquit the defendants."

#### IV.

"I instruct you that it is against the policy of the laws of the United States to sustain a prosecution or conviction upon an indictment charging a conspiracy against the laws of the United States if the conspiracy or plan originated solely in the mind or minds of the government officials, and hence, unless you believe from the evidence in this case, beyond a reasonable doubt, that the defendants at the time alleged in the indictment had formed a conspiracy as therein alleged, without the suggestion and origination of the same by the postoffice inspector, or inspectors, and independent thereof, then it will be your duty to acquit the defendants."

#### V.

"I instruct you that while it may be proper under the laws of the United States for a government officer to use decoy methods in apprehending crime, that is, to ascertain whether or not a person, or persons are actually engaged in an offense against the laws of the



United States, nevertheless, the evidence, if any, or the facts or circumstances, if any, procured by said decoy method can only be considered by you in determining the question as to whether or not the defendants had actually entered into the conspiracy as charged in the indictment, and any fact, or facts, or circumstances acquired by said decoy letters are not of themselves sufficient to sustain a verdict of guilty unless you believe from the evidence beyond a reasonable doubt that the defendants had, independent of said decoy letters, entered into the conspiracy at the time and place as alleged in the indictment."

#### VI.

"I instruct you that unless you believe from the evidence beyond a reasonable doubt in this case, that the defendants or one of them actually mailed or actually caused to be mailed the letters or one of them, set out in the indictment, then it will be your duty to acquit the defendants, because unless the defendants, or one of them knew of, or in some way authorized the mailing of the letter, or letters set out in the indictment, then the defendants would not be guilty, regardless of whether or not you may believe there was, or was not, a conspiracy between them."

#### VII.

"I instruct you that a person cannot, as the agent or employee of another in any business, bind his employer in a criminal proceeding or charge, and his employer is not responsible for the acts of the employee in committing a criminal offense, unless you believe from the evidence beyond a reasonable doubt, that the employer in some way knew of the act or acts of the employee,



alleged to be criminal, or in some way authorized the act or acts of the employee; and hence, unless you believe from the evidence, beyond a reasonable doubt, that the defendants in some way knew of, or intentionally authorized the mailing of the letter or letters set out in the indictment, then it will be your duty to acquit the defendants."

### VIII.

"I instruct you that before you can find a verdict of guilty against the defendants in this case, that you must find that all of the following conditions exist:

(a) That there was a conspiracy between them, as alleged in the indictment.

(b) That the object of that conspiracy was that the said defendants should devise a scheme or plan to defraud the persons, as alleged in the indictment, and

(c) That said defendants intended the use of the United States mails in carrying out or in the furthering of the object of such conspiracy.

And it is necessary before you are authorized to find a verdict of guilty in this case, that you believe all of the above elements to exist in this case. It is not sufficient that one of them exist, but they all must have existed, as alleged in the indictment, and to your satisfaction, beyond a reasonable doubt, before you are authorized to convict the defendants."

### IX.

"I instruct you that the principal or master is not criminally liable for the acts of his agent or servant even though done in the general course of his employment, unless such acts of the agent or servant are authorized or consented to by the principal or master and

that no authority to do a criminal act will be presumed. Hence, unless you believe from the evidence in this case, beyond a reasonable doubt, that the defendant, Holsman, actually mailed the letter or letters set out in the indictment, or caused the same to be mailed, or in some way knowingly authorized or acquiesced in the mailing thereof in furtherance of the scheme as charged in the indictment, then it will be your duty to acquit him, even though you may believe from the evidence that the defendant Sims was employed by the defendants to care for the correspondence and answering letters, even though you believe that the answering of letters by the defendant Sims was in the course of his employment."

X.

"I instruct you that under this charge of conspiracy, before you are authorized to convict the defendants, or either of them, you must believe beyond a reasonable doubt, that they had an understanding or agreement between or among themselves to defraud any and all persons who could be induced to write to them as charged in the indictment. And further, as a part of said conspiracy they intended the use of the mails in furtherance of said conspiracy.

The first question for you to consider is, was there a conspiracy? That is to say, did the defendants conspire or agree together and between or among themselves to commit the offense against the United States, as charged in the indictment? And, in the next place, did they enter into an agreement, or plan by which it was agreed or understood between or among themselves that they would defraud any and all persons, as charged

in the indictment? And, in the next place, did they knowingly or intentionally mail, or cause to be mailed either of the letters charged in the indictment?

Before you are authorized to convict the defendants or either of them, you must believe beyond a reasonable doubt, that they intended to defraud in the manner and by the use of the means set out in the indictment.

If the defendants, acting as specialists in the treatment of diseases acted in good faith and honestly believed in the representations which they made, if any, and did not by any of their said acts, as charged in the indictment, intend to defraud any person or persons, then it is your duty to acquit the defendants."

#### XI.

"I instruct you that though you may believe from the evidence that the defendant Holsman was financially interested in the office conducted at Los Angeles at the times alleged in the indictment, yet unless you believe from the evidence beyond a reasonable doubt, that he knew of or consented to or in some way authorized the mailing of the letters or one of them set out in the indictment, then you cannot convict him, and it will be your duty to find a verdict of not guilty as to him."

To the giving of each of the instructions above mentioned the defendants and each of them duly excepted.

#### VI.

The court erred in instructing the jury over the defendant's objection and to each of which instructions the defendants and each of them duly excepted and which instructions are set out on pages 11 and 12 of the court's instructions and are as follows, to-wit:

## Page 11.

"It is lawful that what is known as decoy letters, such as the letters sent by the postoffice inspector in this case for the purpose of procuring an answer from the defendants, or one of them, may be used for the purpose of ascertaining whether the person addressed is engaged in the commission of a criminal offense against the laws of the United States. If at the time the said decoy letter or letters were mailed to the defendants, or one of the defendants, the said defendants were engaged in the criminal practice charged in the indictment, and the said defendants in response to said alleged decoy letters, mailed one or both of the letters set forth in the indictment in answer to such decoy letters, or either of them, in order to execute or carry out such conspiracy, or in an attempt so to do, then the use of such decoy letters and the answers thereto can lawfully be received as evidence to prove said conspiracy.

A government official cannot conspire with another person to violate the laws of the United States for the purpose of getting such person convicted of a crime. The conspiracy with which the defendants are charged must be proven to exist independently of any inducement to enter therein by any government official. In other words, if the conspiracy existed, it does not matter what the government officers did in order to procure evidence to prove it."

## Page 12.

“It is admitted by the government in this case that each of the letters set out in the indictment and alleged therein to be the overt acts pursuant to the accomplishment of the purpose of the conspiracy alleged in the indictment, were received by the addressees therein respectively in reply to letters respectively addressed to the defendant G. M. Freeman, M. D., either by a United States postal inspector, or by another procured by the inspector so to do, and that the letters so addressed to said defendant were addressed to him for the purpose of giving to the government information as to whether or not the defendants charged in the indictment were engaged in an unlawful use of the mails. These letters so addressed to said defendants may be properly designated as decoy letters. You are instructed that the fact that the letters alleged in the indictment were in reply to such decoy letters is no defense in this action. You are further instructed that a government officer suspecting that a person or persons may be engaged in a business in violation of the laws of the United States, has a right to seek information under an assumed name, directly from such person or persons so suspected. That if such suspected person or persons respond to such inquiry for such information, and by so responding violates a law of the United States by using the mails to convey such information, which use of the mails is prohibited by law, then such person or persons so using the mails cannot, when indicted for that offense, set up that he would not have violated the law if the inquiry had not been

made of him by the government official or through the procurement of the government official."

#### VII.

The defendants and each of them were prejudiced and their right of a fair trial prejudiced before the jury by reason of the statements of the assistant United States attorney during the trial of the cause in his comments on the evidence in which he stated that the letters offered in evidence were not decoy letters but were genuine letters and further that the defendants had been guilty of defrauding people or various people and persons and by other similar comments purporting to state certain facts which were never offered nor admitted in evidence, to which said statements and each of them the defendants and each of them then and there duly excepted and assigned the same as misconduct.

#### VIII.

The evidence offered on behalf of the government consisting alone of letters admitted to be decoy letters was wholly insufficient to sustain the verdict of the jury and the verdict and judgment are each contrary to law.

#### IX.

The court erred in not sustaining the motion of the defendants and each of them in arrest of judgment, to which the defendants and each of them duly excepted.

#### X.

The court erred in not sustaining the defendants' demurrer to the indictment herein and their motion to quash the same, to each of which the defendants and each of them duly excepted.



## XI.

The court erred in refusing the defendants the right to show on cross-examination of the witness, Dr. Frank Fuller, as to how the office of the defendants was equipped for the treatment of patients and how the correspondence of the office was conducted; the said witness, Dr. Frank Fuller, having been questioned by the government about his knowledge of the office and the correspondence at the time he was employed in the office, to which rulings the defendants and each of them at the time duly excepted.

## XII.

The court erred in sustaining the objection of government's counsel to the questions asked Dr. Whitman by defendants' counsel on cross-examination relating to the methods of the treatment of diseases about which he qualified as an expert witness.

Respectfully submitted,

DUKE STONE and  
MACK MEADER,

Attorneys for the Defendants.

[Endorsed]: Original. Case No. 903 Criminal. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman and Gideon M. Freeman, defendants. Assignment of error. Filed Jan. 10, 1917. Wm. M. Van Dyke, clerk; by Chas. N. Williams, deputy clerk. Mack Meader and Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F 2132. Attorneys for defendants.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

Case No. 903 Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN and GIDEON M. FREE-  
MAN,

Defendants.

**Order Allowing Writ of Error and Admitting  
Defendants to Bail.**

On this 10 day of January, 1917, came the defendants Charles K. Holsman and Gideon M. Freeman, by their attorneys, Duke Stone and Mack Meader, and presented to the court their petition heretofore filed herein, praying for the allowance of a writ of error and assignment of errors, intended to be urged by them, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court for the Ninth Judicial Circuit, and that such other and further proceedings may be had as may be proper in the premises;

On consideration whereof, it is ordered that said petition be, and the same is hereby allowed and granted, and that a writ of error be, and the same is hereby allowed in said cause, and returnable before the said United States Circuit Court of Appeals for the Ninth Judicial Circuit, on the 9th day of Feb'y, A. D. 1917, and that a transcript of the record and of all the proceedings and papers on which the judgment was made

and entered in this cause shall be made and transmitted to the United States Circuit Court of Appeals for the Ninth Judicial Circuit, and said writ shall operate as a supersedeas and stay of execution.

And it appearing that the United States attorney has no objection, it is further ordered that the defendant, Charles K. Holsman, be admitted to bail pending said writ of error, in the sum of three thousand (\$3000.00) dollars, conditioned as the law directs, and that the defendant, Gideon M. Freeman, be admitted to bail pending said writ of error, in the sum of three thousand (\$3000.00) dollars, conditioned as the law directs; and

It is hereby further ordered that each of the undertakings, now tendered by each of said defendants, be, and the same are, and each of them is, hereby approved as the undertakings on writ of error herein, and also as such bail bonds.

Done this 10 day of January, 1917.

OSCAR A. TRIPPET,

District Judge.

[Endorsed]: Original. Case No. 903 Criminal. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman and Gideon M. Freeman, defendants. Order allowing writ of error and admitting defendants to bail. Filed Jan. 10, 1917, at 30 min. past 11 o'clock a. m. Wm. M. Van Dyke, clerk; Murray C. White, deputy. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for defendants.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES K. HOLSMAN, *et al.*,

Defendants.

**Supersedeas Bond of Charles K. Holsman.**

Know All Men by These Presents: That we, Charles K. Holsman, as principal, and Charles K. Holsman and M. B. Ansel & M. Newman, as sureties, are held and firmly bound to the United States of America in the full sum of \$3000.00 (three thousand dollars), lawful money of the United States, to be paid to the United States, and the further sum of \$300.00, lawful money of the United States, to be paid to the United States, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

Sealed with our seals and dated this 8th day of January, 1917.

Whereas, lately at the term of the District Court of the United States for the Southern District of California, Southern Division, in the suit pending in the said court between the United States of America, plaintiff, and said Charles K. Holsman, defendant, judgment and sentence was given, made and rendered and entered against said Charles K. Holsman, and the said Charles K. Holsman is about to apply for a writ of error from

United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence and a citation directed to the United States of America to be and appear in the said Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, pursuant to terms and at or within the time to be fixed in said citation, which said citation shall be duly issued and served within the time provided by law, now, the condition of the above application is such that if upon the issuance of such writ and the service of such citation, as aforesaid, the said Charles K. Holsman shall appear in person or by attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in the said court and prosecute his writ of error, and if the said Charles K. Holsman shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of such judgment and sentence as said court may direct, if the judgment and sentence against him shall be affirmed; and if he shall appear for trial in the District Court of the United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said court provided judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth

Circuit then this obligation to be void; otherwise to remain in full force, virtue and effect.

CHARLES K. HOLSMAN,  
Principal.

M. B. ANSEL.

M. NEWMAN.

Acknowledged before me the day and year first above written.

(Seal) THOS. E. HAYDEN,  
U. S. Commissioner, North. Dist. of Calif.

State of California, County San Francisco—ss.

M. B. Ansel and M. Newman, being duly sworn, each for himself deposes and says: That he is a householder in said county and state and is worth the sum of \$6600.00, exclusive of property exempt from execution and over and above all debts and liabilities.

M. B. ANSEL.

M. NEWMAN.

Subscribed and sworn to before me this 8th day of January, 1917.

(Seal) THOMAS E. HAYDEN,  
United States Commissioner,  
Notary Public in and for the County of San Francisco,  
State of California.

Approved 1/10/17.

TRIPPET,

Judge.

Department of Justice.

Office of United States Attorney for the Northern District of California, San Francisco.

Terms of court: U. S. Circuit Court of Appeals:  
At San Francisco—First Mondays in October, Febru-



ary and May. U. S. District Court: At San Francisco—First Monday in March; second Monday in July; first Monday in November. At Sacramento—First Mondays in April. At Eureka—Third Monday in July.

January 8, 1917.

Albert Schoonover, Esq.,  
United States Attorney,  
Los Angeles, California.

Dear Sir:

I have examined the sureties M. B. Ansel and M. Newman who qualified before Commissioner Thomas E. Hayden on January 8, 1917, on the bond of Charles K. Holsman, in the case of United States of America, plaintiff, vs. Charles K. Holsman, *et al.*, defendants, No. 903 Criminal, in your District, Southern Division, and certify that in my opinion the said sureties are good and sufficient sureties for the amount of the bond

Respectfully,

JOHN W. PRESTON,  
United States Attorney.

MA T/J.

[Endorsed]: Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Charles K. Holsman, *et al.*, defendants. Supersedeas bond of Charles K. Holsman. Filed Jan. 10, 1917, at 25 min. past 11 o'clock a. m. Wm. M. Van Dyke, clerk; Murray C. White, deputy. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California. Phone: F-2132. Attorney for said defendant.

*In the District Court of the United States, Southern  
District of California, Southern Division.*

No. 903 Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIDEON M. FREEMAN, *et al.*,

Defendants.

**Supersedeas Bond of Gideon M. Freeman.**

Know All Men by These Presents: That we, Gideon M. Freeman, as principal, and Charles W. Rand and Joseph Risk, as sureties, are held and firmly bound to the United States of America in the full sum of \$3000.00, lawful money of the United States, to be paid to the United States, and the further sum of \$300.00, lawful money of the United States, to be paid to the United States, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 9th day of January, 1917.

Whereas, lately at the term of the District Court of the United States for the Southern District of California, Southern Division, in the suit pending in the said court between the United States of America, plaintiff, and said Gideon M. Freeman, defendant, judgment and sentence was given, made and rendered and entered against said Gideon M. Freeman, and the said

Gideon M. Freeman is about to apply for a writ of error from United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence and a citation directed to the United States of America to be and appear in the said Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, pursuant to terms and at or within the time to be fixed in said citation, which said citation shall be duly issued and served within the time provided by law, now, the condition of the above application is such that if upon the issuance of such writ and the service of such citation, as aforesaid, the said Gideon M. Freeman shall appear in person or by attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in the said court and prosecute his writ of error, and if the said Gideon M. Freeman shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of such judgment and sentence as said court may direct, if the judgment and sentence against him shall be affirmed; and if he shall appear for trial in the District Court of the United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said court provided judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit then this obli-

gation to be void; otherwise to remain in full force, virtue and effect.

GIDEON M. FREEMAN,  
Principal.

CHARLES W. RAND.

JOSEPH RISK.

State of California, County of—ss.

Charles W. Rand and Joseph Risk, being duly sworn, each for himself deposes and says: That he is a householder in said district and is worth the sum of \$6600.00, exclusive of property exempt from execution and over and above all debts and liabilities.

CHARLES W. RAND.

JOSEPH RISK.

Subscribed and sworn to before me this 9th day of January, 1917.

(Seal)

D. M. HAMMACK,

United States Commissioner, Southern District of California.

Approved 1/10/17.

TRIPPET,

Judge.

[Endorsed]: Case No. 903 Crim. In the District Court of the United States, Southern District of California, Southern Division. United States of America, plaintiff, vs. Gideon M. Freeman, *et al.*, defendant. Supersedeas bond of Gideon M. Freeman. Filed Jan. 10, 1917, at 25 min. past 11 o'clock a. m. Wm. M. Van Dyke, clerk; Murray C. White, deputy. Mack Meader, Los Angeles, California. Phone: F-2132. Attorney for said defendant.

United States of America.

*District Court of the United States, Southern District  
of California.*

Clerk's Office, No. 903.

**Praeceptum.**

To the Clerk of Said Court:

Sir:

Please issue transcript on writ of error to contain the following:

1. Bill of exceptions in full.
2. Judgment roll.
3. Citation (on writ of error).
4. Writ of error.
5. Order allowing writ of error.
6. Petition for writ of error.
7. Assignment of error.
8. Order extending time to prepare & serve proposed bill of exceptions.
9. And any and all papers, documents & records necessary to present a complete record on appeal.

DUKE STONE.

[Endorsed]: No. 903. U. S. District Court, Southern District of California, Southern Division. United States vs. Chas. K. Holsman *et al.*, defts. Praeceptum for transcript on writ of error. Filed May 9, 1917. Wm. M. Van Dyke, clerk; by Chas. N. Williams, deputy clerk.